

09:20AM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227  
(LJV)

September 10, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF CURTIS RYAN - DAY 1  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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PRESENT:

BRIAN A. BURNS, FBI Special Agent  
MARILYN K. HALLIDAY, HSI Special Agent  
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

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\* \* \* \* \*

(Excerpt commenced at 9:44 a.m.)

(Jury seated at 9:44 a.m.)

**THE COURT:** Good morning, everyone.

**JURORS:** Good morning.

**THE COURT:** The record will reflect that all our  
jurors are present. The government can call its next witness.

**MR. TRIPI:** We call Special Agent Curtis Ryan,  
Your Honor.

**C U R T I S R Y A N**, having been duly called and sworn,  
testified as follows:

**MR. TRIPI:** May I proceed, Your Honor?

**THE COURT:** You may.

**MR. TRIPI:** Thank you.

**DIRECT EXAMINATION BY MR. TRIPI:**

Q. Good morning, Special Agent Ryan. How are you?

A. I'm well. Good morning.

09:46AM 1 Q. Can you tell the jury by whom you're currently employed?

09:46AM 2 A. Homeland Security Investigations.

09:46AM 3 Q. And what is your job with the Homeland Security?

09:46AM 4 A. I'm the Resident Agent in Charge of the HSI office in

09:46AM 5 Indianapolis, Indiana.

09:46AM 6 Q. Does that mean you're the head of that office?

09:46AM 7 A. Yes, I'm the head of that office. We're responsible for

09:46AM 8 HSI investigations in the Southern District of Indiana.

09:46AM 9 Q. How long in total have you been employed a Homeland

09:46AM 10 Security Investigations?

09:46AM 11 A. Since February of 2012.

09:46AM 12 Q. So roughly a little over 12 years?

09:47AM 13 A. Yes.

09:47AM 14 Q. Can you tell the jury, what is the mission of Homeland

09:47AM 15 Security Investigations?

09:47AM 16 A. HSI investigates transnational criminal organizations.

09:47AM 17 And in particular, those that seek to exploit the customs

09:47AM 18 or immigration laws of the United States.

09:47AM 19 Q. Does that generally involve a nexus to the United States

09:47AM 20 Border in some way?

09:47AM 21 A. Yes, a nexus to the border, some type of smuggling

09:47AM 22 network.

09:47AM 23 Q. What other positions have you held during your tenure

09:47AM 24 with Homeland Security Investigations? Can you talk the jury

09:47AM 25 through your trajectory through that department -- that

09:47AM 1 office?

09:47AM 2 A. Sure. So I was hired in February 2012. Left NCIS and  
09:47AM 3 came to HSI. Went through the HSI training, then I came to  
09:47AM 4 Buffalo in August of 2012.

09:47AM 5 I was assigned to a group that investigated outbound  
09:48AM 6 technology smuggling and did that for several years.

09:48AM 7 And then early in 2016, I moved to one of the drug  
09:48AM 8 smuggling groups. Did that for several years.

09:48AM 9 In October of 2020, I was maybe the acting group  
09:48AM 10 supervisor of a financial group. And then I was permanently  
09:48AM 11 promoted to group supervisor in March of '21, and I held that  
09:48AM 12 position until I left for Indianapolis in July of last year.

09:48AM 13 Q. So you were in Buffalo from August of 2012 to July of  
09:48AM 14 2023?

09:48AM 15 A. Yes.

09:48AM 16 Q. And can you tell the jury what -- what other  
09:48AM 17 professional -- well, first, let's step back.

09:48AM 18 Tell them about your educational background.

09:48AM 19 A. Sure. Is it all right if I go from back to front?

09:48AM 20 Q. Go ahead.

09:48AM 21 A. So, working, education, it's kind of -- it's mixed up.

09:49AM 22 So college student right after high school, then I also  
09:49AM 23 joined the Army National Guard in my hometown, so that's  
09:49AM 24 1992. I was a pretty good soldier and a midline college  
09:49AM 25 student, so I went to the Army full time on active duty in

1 April of '95.

2 Was an artilleryman until December '97.

3 Started to go through the process to switch my -- it's  
4 called MOS, military occupational specialty, to Army CID  
5 special agent.

6 Q. Tell them what that is. What is that?

7 A. So, it's civilian now, but at the time when I did it in  
8 the Army, there's a -- there's was a group of about 750 Army  
9 CID special agents that investigated felony crimes that  
10 happened on Army bases, or that somehow affect the Army.  
11 There's a lot of stuff that happens around the outside of a  
12 base that still affects the people on the base.

13 Q. Please continue.

14 A. Yeah. So, I finished the -- the formal training for that  
15 in April '99. Went to Fort Lewis, Washington, couple years.  
16 Carlisle Barracks, Pennsylvania for about one year. And then  
17 Fort Bragg in North Carolina, which is now Fort Freedom, I  
18 think, for two years and that was the end of my time in the  
19 Army. And then I finished my undergraduate degree in  
20 criminal justice in 2003.

21 Q. Where did you get your degree from?

22 A. Saint Martin's University.

23 Q. And what -- where did your employment history take you  
24 from there?

25 A. I moved to Indianapolis, actually, working for the Army

1 as a civilian. Still as a special agent in a small unit the  
2 Army has. It investigates contract fraud in Army contracts.  
3 I was there for about two and a half years.

4 Left and went to Washington, D.C. and worked for the  
5 Department of Defense Inspector General as a special agent.  
6 I had a very short stint for the Department of Justice,  
7 Office of Inspector General as a special agent.

8 And then in 2008, I moved to Georgia and worked for the  
9 Naval Criminal Investigative Service until I was hired by  
10 HSI.

11 Q. And what did you do for the Naval Criminal Investigative  
12 Service, what is that?

13 A. So as a special agent, similar to the Army, or to Army  
14 CID. NCIS investigates crimes within the Navy or that affect  
15 the Navy. I worked or was assigned to an office in Georgia  
16 called the Contingency Response Field Office.

17 At the time, the Navy had a lot of people overseas, and  
18 we covered the NCIS support to the Navy missions in the Horn  
19 of Africa, there was an afloat counter-piracy mission in Iraq  
20 and Afghanistan. I went to Afghanistan three times.

21 Q. And that brings you to HSI; is that right?

22 A. That's correct.

23 Q. Throughout your investigative career, have you  
24 investigated narcotics and narcotics-related trafficking  
25 cases?

09:52AM 1 A. Yes, going back to the Army.

09:52AM 2 Q. Conspiracies?

09:52AM 3 A. Yes.

09:52AM 4 Q. As a part of your training with Homeland Security

09:52AM 5 Investigations, do you also have -- have you also received

09:52AM 6 training on traditional organized crime groups and a subset

09:52AM 7 of that referenced as Italian Organized Crime?

09:52AM 8 A. Yes.

09:52AM 9 Q. While you were a Homeland Security special agent here in

09:53AM 10 Buffalo, did there come a point in time in or about April of

09:53AM 11 2017 where you also joined the DEA as a task force officer?

09:53AM 12 A. Yes.

09:53AM 13 Q. Can you describe what your job is like while you're an

09:53AM 14 HSI special agent but also a DEA task force officer? Can you

09:53AM 15 explain that for the jury?

09:53AM 16 A. Yes. So I was assigned to a group at the Buffalo

09:53AM 17 Resident Office. It's called D-58. The common name for it

09:53AM 18 was the task force group. There were four or five DEA

09:53AM 19 special agents, and then task force officers from state,

09:53AM 20 local, and other federal law enforcement agencies.

09:53AM 21 And then my role was to try to use HSI's border

09:53AM 22 authorities to help enhance the cases that the group was

09:54AM 23 doing.

09:54AM 24 Q. Is that sort of the idea behind task forces, everyone on

09:54AM 25 the task force brings a -- a -- a piece of investigative

09:54AM 1 experience or specialty to the group?

09:54AM 2 A. Right. Yes. Everybody tries to do what you're -- you

09:54AM 3 know, do what your agency does best and then pull all of

09:54AM 4 those bests together.

09:54AM 5 Q. While you worked for the DEA in group D-58, were you also

09:54AM 6 separately working for Homeland Security?

09:54AM 7 A. Yes.

09:54AM 8 Q. During that time after you joined the DEA as a task force

09:54AM 9 officer in April 2017, who was your group supervisor in D-58?

09:54AM 10 A. James McHugh.

09:54AM 11 Q. And who was the RAC in the DEA at that point, if you

09:54AM 12 recall?

09:54AM 13 A. I will recall if I think about it. John Flickinger.

09:54AM 14 Q. Okay.

09:54AM 15 A. And then later, Ed Orgon.

09:55AM 16 Q. Okay. And when you worked there, was the DEA located in

09:55AM 17 the Electric Tower building in downtown Buffalo?

09:55AM 18 A. Yes, on the fourth and fifth floors.

09:55AM 19 Q. And that's not too far from this building, correct?

09:55AM 20 A. Correct.

09:55AM 21 Q. And was there a DEA special agent in a different group

09:55AM 22 named Joseph Bongiovanni who you knew of?

09:55AM 23 A. Yes.

09:55AM 24 Q. What group was that person in?

09:55AM 25 A. D-57.



1 Q. And by that point in time, who was his group supervisor,  
2 if you know?

3 A. Greg Yensan.

4 Q. And do you see DEA Special Agent Joseph Bongiovanni or  
5 former DEA Special Agent Bongiovanni in court today?

6 A. Yes.

7 Q. Can you please point to him and describe something he's  
8 wearing?

9 A. He's at the defense table in the blue suit and wearing  
10 glasses.

11 **MR. TRIPI:** May the record reflect the witness  
12 pointed to and identified the defendant, Your Honor.

13 **THE COURT:** It does.

14 **MR. TRIPI:** Thank you.

15 **BY MR. TRIPI:**

16 Q. Now, I'd like to direct your attention to in or about of  
17 February of 2018. By that point in time, had -- had the FBI  
18 and the Erie County Sheriff's Office arrested and charged  
19 federally an individual by the name of Ron Serio?

20 A. Yes.

21 Q. By February of 2018, were you invited to a proffer  
22 interview of Ron Serio at the U.S. Attorney's Office?

23 A. Yes, I was.

24 Q. And just remind the jury, just basically, the general --  
25 what is a proffer interview?

09:56AM 1 A. It's an interview done under an agreement between the  
09:56AM 2 defendant and the U.S. Attorney's Office where the U.S.  
09:56AM 3 Attorney's Office agrees to not prosecute the defendant based  
09:56AM 4 solely on something they say in that interview.

09:56AM 5 Q. So it's an interview governed by that document that  
09:57AM 6 allows someone to come in and talk?

09:57AM 7 A. Yes.

09:57AM 8 Q. And the U.S. Attorney's Office basically evaluates the  
09:57AM 9 information?

09:57AM 10 A. Yes.

09:57AM 11 Q. As well as the agents or the agencies?

09:57AM 12 A. Correct.

09:57AM 13 Q. And in February of 2018, who invited you to attend a  
09:57AM 14 proffer interview of Ron Serio?

09:57AM 15 A. Assistant United States Attorney Paul Parisi.

09:57AM 16 Q. And he's not with the U.S. Attorney's Office anymore,  
09:57AM 17 correct?

09:57AM 18 A. He is not.

09:57AM 19 Q. Okay. Was your interest at that time in proffering Ron  
09:57AM 20 Serio, was it related to potentially who was supplying him  
09:57AM 21 with large amounts of controlled substances?

09:57AM 22 A. Yes.

09:57AM 23 Q. Did you prepare for that proffer in any way?

09:57AM 24 A. There had been a previous proffer by the FBI. I reviewed  
09:57AM 25 that report.

09:57AM 1 Q. And was that a proffer interview from on or about  
09:58AM 2 April 26th, 2017?

09:58AM 3 A. Yes.

09:58AM 4 Q. So, some time had passed from April 26, 2017, to  
09:58AM 5 February 8th, 2018. Is it your understanding that Mr. Serio  
09:58AM 6 had gone into some treatment at that point --

09:58AM 7 A. Yes.

09:58AM 8 Q. -- for his -- for drug addiction?

09:58AM 9 The February proffer, was that on or about February 28th,  
09:58AM 10 2018?

09:58AM 11 A. Yes.

09:58AM 12 Q. Who did you attend the proffer with?

09:58AM 13 A. DEA Special Agent David Walters and HSI Special Agent  
09:58AM 14 Matthew Infante.

09:58AM 15 Q. So I think maybe my last question referenced it, but can  
09:58AM 16 you explain for the jury, what was the focus that you had  
09:58AM 17 going into that proffer interview of Ron Serio at that point  
09:58AM 18 in time.

09:58AM 19 A. Well, to determine where he was obtaining and how he was  
09:58AM 20 obtaining marijuana and particularly some pills that he had  
09:58AM 21 that were counterfeit oxycodones that contained fentanyl.

09:58AM 22 Q. And based upon your review of the prior proffer he had  
09:59AM 23 given, did you have an understanding by that point that he  
09:59AM 24 had a Canadian source of supply for marijuana and those  
09:59AM 25 fentanyl pills named Jarrett Guy?

09:59AM 1 A. Yes.

09:59AM 2 Q. Was Mr. Guy the focus of your interview at that point?

09:59AM 3 A. Yes.

09:59AM 4 Q. And was Mr. Guy -- where was he stationed or where was he

09:59AM 5 from?

09:59AM 6 A. Vancouver and British Columbia.

09:59AM 7 Q. So in Canada, far, far away?

09:59AM 8 A. Far, far west Canada.

09:59AM 9 Q. Now, in that proffer interview in February of 2018, did

09:59AM 10 you or anyone else -- withdrawn.

09:59AM 11 Did Serio mention at all an individual named Mike

09:59AM 12 Masecchia?

09:59AM 13 A. No.

09:59AM 14 Q. Did Serio mention at all a person named Lou Selva?

09:59AM 15 A. No.

09:59AM 16 Q. Did Serio mention at all Defendant Bongiovanni?

09:59AM 17 A. No.

09:59AM 18 Q. Were you asking any questions at that point about Italian

09:59AM 19 Organized Crime?

09:59AM 20 A. No.

09:59AM 21 Q. In fact, did your training in traditional and Italian

10:00AM 22 Organized Crime in your career happen at a later point after

10:00AM 23 that interview?

10:00AM 24 A. Yes.

10:00AM 25 Q. You actually went to another country and got some

10:00AM 1 training in Italian Organized Crime after that; is that

10:00AM 2 right?

10:00AM 3 A. Yes, that's correct.

10:00AM 4 Q. At that point, did you know to ask any questions about

10:00AM 5 Mike Masecchia or Lou Selva?

10:00AM 6 A. No.

10:00AM 7 Q. You had no idea about them, right?

10:00AM 8 A. No.

10:00AM 9 Q. I'd like to fast forward in time from February of 2018 to

10:00AM 10 July 20th, 2018. Moving to July 20th, 2018, were you invited

10:00AM 11 to another proffered interview of Ron Serio at the U.S.

10:00AM 12 Attorney's Office?

10:00AM 13 A. Yes.

10:00AM 14 Q. Who else -- to the best of your recollection, who else

10:01AM 15 was present for that interview?

10:01AM 16 A. DEA Special Agent Anthony Casullo, HSI Special Agent Greg

10:01AM 17 Mango, and a Buffalo Police Department detective named Mike

10:01AM 18 Maiola. Greg and Mike were task force officers with FBI Safe

10:01AM 19 Streets.

10:01AM 20 Q. So even though Greg Mango is a Homeland Security special

10:01AM 21 agent like you, he was on an FBI task force?

10:01AM 22 A. Yes.

10:01AM 23 Q. And even though Mike Maiola was a Buffalo police

10:01AM 24 detective, he was on an FBI task force?

10:01AM 25 A. Yes.

1 Q. Okay. At that point, did the focus of the topics that  
2 you wanted to question Mr. Serio about shifted -- shift  
3 somewhat?

4 A. Yes.

5 Q. And had you been also consulting with the U.S. Attorney's  
6 Office regarding topics to cover during the proffer?

7 A. Yes, we had.

8 Q. At that point, what was -- how did -- describe for the  
9 jury how the focus of the proffer interview of Mr. Serio  
10 shifted from Jarrett Guy out in Vancouver, Canada to other  
11 topics?

12 A. We wanted to spend more effort on identifying Mr. Serio's  
13 Buffalo distribution network. And then also Special Agent  
14 Mango had recently concluded an investigation of a motorcycle  
15 gang called the Kingsmen. The president went to trial, was  
16 convicted.

17 Anyway, he had learned in that investigation that there  
18 was some intersection between the Kingsmen, the Outlaws,  
19 which are another motorcycle gang, and then Pharaoh's  
20 Gentlemen's Club, which is owned by Peter Gerace.

21 Q. And by that point in time, had you developed an awareness  
22 that Ron Serio had a connection to Anthony Gerace?

23 A. Yes.

24 Q. What had you learned just briefly and generally about  
25 Anthony Gerace's connection to Ron Serio by that point?

10:03AM 1 A. That -- that the day the FBI had arrested Ron Serio, it  
10:03AM 2 was an Erie County detective that was working with them  
10:03AM 3 watched Anthony Gerace go in and then come out of Ron Serio's  
10:03AM 4 house on Lebrun after a short time. They followed him away,  
10:03AM 5 did a traffic stop, and found some of those counterfeit  
10:03AM 6 oxycodone pills.

10:03AM 7 Q. And was that a detective that you had worked with and  
10:03AM 8 known named Adam Day?

10:03AM 9 A. Yes.

10:03AM 10 Q. And he had told you about that?

10:03AM 11 A. Yes.

10:03AM 12 Q. So with that background, was the focus of that proffer  
10:03AM 13 going to be Pharaoh's, Peter Gerace, Anthony Gerace, and  
10:03AM 14 connections, if any, to Italian Organized Crime?

10:03AM 15 A. Yes.

10:03AM 16 Q. Did you also know that Peter and Anthony Gerace were the  
10:03AM 17 grandsons of Joseph Todaro Sr.?

10:04AM 18 A. Yes.

10:04AM 19 Q. And were you aware of his reputation in the law  
10:04AM 20 enforcement community?

10:04AM 21 A. By that point, I was, yes.

10:04AM 22 Q. And what was that reputation of Todaro Sr. by that point?

10:04AM 23 A. That he was the head of the organized crime in Buffalo,  
10:04AM 24 Italian Organized Crime.

10:04AM 25 Q. By that point he was deceased, but that had been his

10:04AM 1 reputation?

10:04AM 2 A. Right.

10:04AM 3 Q. And was Mr. Serio represented by counsel during the  
10:04AM 4 interview?

10:04AM 5 A. Yes.

10:04AM 6 Q. And who was that?

10:04AM 7 A. Herbert Greenman.

10:04AM 8 Q. When you started asking -- did -- did you ask a lot of  
10:04AM 9 the questions in the proffer interview?

10:04AM 10 A. I did.

10:04AM 11 Q. When you started asking questions on these topics to  
10:04AM 12 Mr. Serio, did you notice a -- a demeanor or any change in  
10:04AM 13 his behavior from your prior proffer?

10:04AM 14 A. He didn't want to answer the questions about Buffalo.

10:04AM 15 Q. To put it simply, did he seem to get more tightlipped?

10:04AM 16 A. Yes.

10:04AM 17 Q. Did he look more uncomfortable?

10:05AM 18 A. He was very uncomfortable.

10:05AM 19 Q. How did you interpret the feedback you were observing  
10:05AM 20 from Mr. Serio? How did that affect your questioning?

10:05AM 21 A. It led me to think that we were -- I was asking the right  
10:05AM 22 kind of questions, and then also to ask more questions about  
10:05AM 23 those areas to see if I could get him to provide some more  
10:05AM 24 information.

10:05AM 25 Q. When you walked into that proffer interview that day, or



10:05AM 1 at any time before that proffer, were you intent upon

10:05AM 2 investigating this defendant, Joseph Bongiovanni, a special

10:05AM 3 agent who was active in the DEA at that point?

10:05AM 4 A. No. I had not ever considered anything like that.

10:05AM 5 Q. Did something happen in that proffer that -- that changed

10:05AM 6 your focus?

10:05AM 7 A. Yes.

10:05AM 8 Q. Without getting into the specifics about what Mr. Serio

10:05AM 9 said, did something he said cause you to ask a specific

10:06AM 10 question about Anthony and Peter Gerace?

10:06AM 11 A. Yes.

10:06AM 12 Q. Did you ask him, Mr. Serio, what it meant for someone to

10:06AM 13 be connected?

10:06AM 14 A. Yes. It was a word that he had used to describe them.

10:06AM 15 And then I started to press him on what he meant when he said

10:06AM 16 that word. And then I asked him the same question several

10:06AM 17 times in a row, "What does it mean to be connected?"

10:06AM 18 Q. And -- and on that line of questioning with regard to

10:06AM 19 Peter and Anthony Gerace being connected, is that when you

10:06AM 20 really started to notice Mr. Serio's demeanor shifting?

10:06AM 21 A. Yes.

10:06AM 22 Q. How would you characterize his demeanor?

10:06AM 23 A. Nervous, almost to the point of panic.

10:06AM 24 Q. As you continued down those line of questions about

10:07AM 25 Anthony and Peter Gerace being connected, did Mr. Serio say

10:07AM 1 something that changed your investigation in the direction  
10:07AM 2 and focus of it for the next several years?  
10:07AM 3 A. Yes.  
10:07AM 4 Q. Whose name did Mr. Serio utter that changed your focus?  
10:07AM 5 A. Mr. Bongiovanni.  
10:07AM 6 Q. In particular, did Mr. Serio indicate that  
10:07AM 7 Mr. Bongiovanni had provided information about informants to  
10:07AM 8 Anthony Gerace?  
10:07AM 9 A. Yes.  
10:07AM 10 Q. Did he name those informants?  
10:07AM 11 A. He did.  
10:07AM 12 Q. Were the names R.K. and T.S.?  
10:07AM 13 A. Yes.  
10:07AM 14 Q. Now at that point did you know whether R.K. or T.S. were  
10:07AM 15 in fact DEA informants?  
10:07AM 16 A. No, I had no idea.  
10:07AM 17 Q. So this was going to take some investigation?  
10:07AM 18 A. Yes.  
10:07AM 19 Q. Was this a lengthy proffer interview?  
10:07AM 20 A. Several hours by the time we were done.  
10:07AM 21 Q. At the conclusion of the interview when -- did Mr. Serio  
10:08AM 22 and his attorney, Mr. Greenman, leave?  
10:08AM 23 A. Yes.  
10:08AM 24 Q. Was there a discussion had at that point between you, the  
10:08AM 25 other investigators, and the prosecutors as to how to handle

1 the information that was just discussed by Mr. Serio --

2 A. Yes.

3 Q. -- as it relates to Mr. Bongiovanni, in particular?

4 A. Yes.

5 Q. What determination was made as to how to handle the

6 information and -- and how the investigation would move going

7 forward?

8 A. So, the -- we had a couple issues that we had to handle.

9 The first was how to handle the written report for the

10 interview. I didn't want to create a DEA report of

11 investigation that included the allegation against

12 Mr. Bongiovanni, simply because those reports are queriable

13 by everyone who has access to the DEA system.

14 So, the determination was made to omit that information

15 from the DEA report. I wrote a separate HSI report of

16 investigation that included the allegation. Within the HSI

17 system, I had the ability to limit by name who could see that

18 report. So I was able to limit that to my immediate

19 supervisor and then Greg Mango who was there in the room when

20 it was said.

21 It was done to protect Mr. Bongiovanni's reputation in

22 the event the allegation was false. And the next

23 determination that was made was that we needed to immediately

24 brief the DEA chain of command about what was said.

25 Q. Was it also done, I think you mentioned earlier, and is

1 maybe implicit in your answer, but you indicated to not

2 include the information that Mr. Serio provided about

3 Mr. Bongiovanni in the DEA reports because you said it was

4 queriable by anyone in DEA; what did you mean by that?

5 A. There's an electronic case management system the DEA used

6 at the time. I don't know if it's changed. But somebody

7 from another office, someone else in the DEA office in

8 Buffalo or in the DEA group in Buffalo could find that report

9 and read it, and we didn't want to broadcast that allegation

10 to all of DEA in the event it was false.

11 Q. Did you also -- were you also concerned about keeping the

12 security of the investigation that would commence under

13 wraps?

14 A. Yes.

15 Q. Was the information handled on a need-to-know basis?

16 A. It was.

17 Q. Did it include a small number of investigators?

18 A. Yes.

19 Q. Did it include a small number of prosecutors?

20 A. Yes, as small as we could keep it.

21 Q. And your direct supervisor as well as the U.S. Attorney

22 and the First Assistant U.S. Attorney at the time?

23 A. Yes.

24 Q. Was one complicating factor the fact that the defendant

25 was still an active DEA agent working cases in the Buffalo

10:11AM 1 area?

10:11AM 2 A. Yes.

10:11AM 3 Q. Someone who could visit the U.S. Attorney's Office and  
10:11AM 4 walk through the hallways with other prosecutors?

10:11AM 5 A. Yes.

10:11AM 6 Q. Did that create some sort of time pressure for the  
10:11AM 7 investigation as well?

10:11AM 8 A. Yes, it did.

10:11AM 9 Q. A short time after that, on or about August 1st, 2018,  
10:11AM 10 did you become aware that DEA Special Agent Anthony Casullo,  
10:11AM 11 subsequent to the Ron Serio proffer interview, disclosed some  
10:11AM 12 race-related comments that he had -- he had heard  
10:11AM 13 Mr. Bongiovanni make directly to him?

10:11AM 14 A. Yes.

10:11AM 15 Q. Did you become aware that those comments were reported by  
10:11AM 16 Mr. Casullo to his management?

10:11AM 17 A. Yes.

10:11AM 18 Q. How, if at all, did Mr. Casullo, who was part of this  
10:12AM 19 original Serio proffer, how did that impact his role moving  
10:12AM 20 forward in the investigation?

10:12AM 21 A. It -- because he was turning into a witness or turned  
10:12AM 22 into a witness at that point, and because the allegation  
10:12AM 23 involved potential misconduct by a DEA employee, the decision  
10:12AM 24 was made to remove him from the investigative team.

10:12AM 25 Q. So Mr. Casullo became a fact witness, but he was no

10:12AM 1 longer an investigator in the -- in the case; is that right?

10:12AM 2 A. That's correct.

10:12AM 3 Q. Over time, did you step -- you had -- you had mentioned

10:12AM 4 earlier that you were a DEA task force officer. As time

10:12AM 5 moves forward, did you stop -- stop going to DEA?

10:12AM 6 A. Yeah. Probably by the end of 2018 I didn't go to DEA

10:12AM 7 anymore.

10:12AM 8 Q. So within a couple of months or so?

10:12AM 9 A. Yeah.

10:12AM 10 Q. I didn't hear that?

10:12AM 11 A. Yes.

10:12AM 12 Q. Shortly after Mr. Casullo reported the race-related

10:13AM 13 statements by Mr. Bongiovanni, did Department of Justice

10:13AM 14 Office of Inspector General join the investigation?

10:13AM 15 A. Yes.

10:13AM 16 Q. Who was the special agent from DOJ, OIG? That's the "for

10:13AM 17 short," right?

10:13AM 18 A. Yes.

10:13AM 19 Q. Who was the special agent assigned?

10:13AM 20 A. David Carpenter.

10:13AM 21 Q. Were efforts made to conceal the investigative details of

10:13AM 22 this investigation from broader members of the DEA and -- and

10:13AM 23 the law enforcement community?

10:13AM 24 A. Yes.

10:13AM 25 Q. Is that in large part for the reasons you've already

1 mentioned?

2 A. Yes, but primarily for the security of the investigation,  
3 the information in the investigation. But then again, also  
4 to just -- we weren't going to waive that allegation around  
5 town either.

6 Q. After -- after Mr. Serio's proffer and after August 1st,  
7 2018, just to put a final point on this question, did Mr.  
8 Casullo -- Special Agent Casullo have any decision-making  
9 authority in the investigation of Defendant Bongiovanni?

10 A. No.

11 Q. Did he have any decision-making authority in the  
12 investigation of Peter Gerace?

13 A. No.

14 Q. Was he involved in any of the day-to-day aspects of those  
15 investigations?

16 A. No.

17 Q. Were you the lead case agent?

18 A. Yes.

19 Q. Fast forward from late July, early August 2019 -- sorry,  
20 2018, I want to make sure I got my dates right, the proffer  
21 was July 20th, 2018 and the race-related statements were  
22 reported August 1st, 2018, correct?

23 A. Yes.

24 Q. Fast forwarding to January 1st, 2019, did you -- did  
25 there come a time when you learned that Michael Sinatra's

1 residence was burglarized?

2 A. Yes.

3 Q. Now, between July of 2018 and January of 2019, had you

4 begun investigating and looking into potential associates of

5 Mr. Bongiovanni and others?

6 A. Yes.

7 Q. Had you basically been working from the moment you heard

8 the information Mr. Serio provided to work towards seeing

9 where that would go?

10 A. Yes.

11 Q. When you learned of Mr. Sinatra's house being

12 burglarized, did there come a point where you were made aware

13 of comments the defendant made to another member of law

14 enforcement regarding the Sinatra burglary?

15 A. Yes.

16 Q. Without telling us the comments that that the defendant

17 made to another person, who was that member of law

18 enforcement that the defendant made some comments to?

19 A. Detective Tom Oswald.

20 Q. Is he a Town of Tonawanda Police narcotics detective?

21 A. He was at the time. He's retired now, I think.

22 Q. And the way that Mr. Bongiovanni's comments made their

23 way to you, did -- was it your understanding that Mr. Oswald

24 told a colleague of his, a Detective Jeff Campanella?

25 A. Yes.



10:16AM 1 Q. And did Detective Jeff Campanella relay the information  
10:16AM 2 to you?

10:16AM 3 A. Yes.

10:16AM 4 Q. After you learned of things that Mr. Bongiovanni said to  
10:16AM 5 Oswald, did -- did you and others at HSI interview Detective  
10:17AM 6 Thomas Oswald?

10:17AM 7 A. Yes.

10:17AM 8 Q. At that point when you had learned about Mr. Sinatra's  
10:17AM 9 burglary, did you start investigating names of people who you  
10:17AM 10 understood to be involved in burglarizing Mr. Sinatra?

10:17AM 11 A. Yes.

10:17AM 12 Q. By that point, did you believe it was a targeted  
10:17AM 13 drug-related burglary?

10:17AM 14 A. Yes.

10:17AM 15 Q. Ultimately, did you and another special agent with HSI,  
10:17AM 16 Marilyn Halliday, get to the point where you can arrest --  
10:17AM 17 you were able to arrest two individuals who were involved  
10:17AM 18 with that burglary?

10:17AM 19 A. Yes.

10:17AM 20 Q. Who were those two individuals?

10:17AM 21 A. John McDonald and Ronald Rowles.

10:17AM 22 Q. Eventually, were -- were they both charged federally?

10:18AM 23 A. Yes.

10:18AM 24 Q. Eventually, did Mr. McDonald plead guilty and agree to  
10:18AM 25 cooperate?

10:18AM 1 A. Yes.

10:18AM 2 Q. Did he sit for several interviews?

10:18AM 3 A. He did.

10:18AM 4 Q. A couple weeks after you learned of -- a couple weeks

10:18AM 5 after you learned of the defendant's statements to Detective

10:18AM 6 Oswald, did you get to the point on or about January 28th,

10:18AM 7 2019, where HSI was able to execute two federal search

10:18AM 8 warrants related to this investigation?

10:18AM 9 A. Yes.

10:18AM 10 Q. Who were the targets of those federal search warrants?

10:18AM 11 A. Anthony Gerace and Michael Sinatra.

10:18AM 12 Q. So it's fair to say roughly within six months of

10:18AM 13 proffering Ron Serio, and you commencing this -- this -- this

10:18AM 14 investigation, you were able to do search warrants at Anthony

10:19AM 15 Gerace and Michael Sinatra's house?

10:19AM 16 A. Yes.

10:19AM 17 Q. Where was Anthony Gerace's residence?

10:19AM 18 A. In Clarence Center, 9070 Michael Douglas Drive.

10:19AM 19 Q. Generally, what did that search warrant permit you to

10:19AM 20 search for?

10:19AM 21 A. Drugs, other evidence of drug trafficking. Firearms,

10:19AM 22 currency.

10:19AM 23 Q. Evidence --

10:19AM 24 A. Books of records.

10:19AM 25 Q. Evidence of drug conspiracy?

10:19AM

1 A. Yes.

10:19AM

2 Q. Did you say firearm evidence as well?

10:19AM

3 A. I did.

10:19AM

4 Q. Now, previously, had you been working towards obtaining a

10:19AM

5 search warrant for Anthony Gerace's prior residence at 2130

10:19AM

6 Kensington in Amherst, New York?

10:19AM

7 A. Yes.

10:19AM

8 Q. Had you enlisted the Amherst Police Department to provide

10:19AM

9 you some assistance in that investigation?

10:19AM

10 A. Yes.

10:19AM

11 Q. And specifically, did you coordinate with JoAnn DiNoto?

10:19AM

12 A. I did.

10:19AM

13 Q. What did they help you with?

10:19AM

14 A. A trash pull.

10:19AM

15 Q. And what was the purpose of trying a trash pull at

10:19AM

16 Anthony Gerace's residence when he lived at 2130 Kensington?

10:20AM

17 A. Just to see if there was anything in the household

10:20AM

18 garbage that would indicate drug trafficking or any other

10:20AM

19 criminal activity.

10:20AM

20 Q. And, in fact, did they find evidence related to marijuana

10:20AM

21 packaging in the -- in his garbage?

10:20AM

22 A. Yes.

10:20AM

23 Q. Did you include that information in your search warrant

10:20AM

24 application?

10:20AM

25 A. Yes.

10:20AM 1 Q. Did it help you get a search warrant even though he moved  
10:20AM 2 to a new residence?  
10:20AM 3 A. It did.  
10:20AM 4 Q. When JoAnn DiNoto spoke to you about helping as it  
10:20AM 5 related to Anthony Gerace, did you tell her, nah, I got it, I  
10:20AM 6 don't want your help?  
10:20AM 7 A. No.  
10:20AM 8 Q. Did you blow her off?  
10:20AM 9 A. No.  
10:20AM 10 Q. But ultimately, you didn't search 2130 Kensington because  
10:20AM 11 right around the time you were about to ask for a search  
10:20AM 12 warrant, Anthony moved?  
10:20AM 13 A. That's correct.  
10:20AM 14 Q. How did you learn he was moving?  
10:20AM 15 A. I was -- went to drive by the house to take a picture of  
10:20AM 16 the front of the house for the warrant application and there  
10:21AM 17 was a moving truck in the driveway.  
10:21AM 18 Q. Did you decide to wait?  
10:21AM 19 A. Decided to wait.  
10:21AM 20 Q. And turning to Michael Sinatra for a moment, where was  
10:21AM 21 his residence that was searched on January 28th, 2019?  
10:21AM 22 A. 2802 Colvin Boulevard in the Town of Tonawanda.  
10:21AM 23 Q. Now as it relates to the Anthony Gerace search warrant,  
10:21AM 24 were you in charge at that location?  
10:21AM 25 A. At Anthony's, yes.

1 Q. And as to the Michael Sinatra location at 2802 Colvin  
2 Boulevard, was your co-case agent Marilyn Halliday, the case  
3 agent in charge on that scene?

4 A. Yes.

5 Q. Generally what did the Michael Sinatra search warrant  
6 permit HSI to search for?

7 A. The same types of items. Evidence of drug conspiracy,  
8 drug trafficking, books, records, firearms, currency.

9 Q. Were the search warrants at both Anthony Gerace's  
10 residence and Michael Gerace's (sic) residence executed  
11 simultaneously?

12 A. Yes.

13 Q. Explain for the jury why the two warrants would be  
14 executed simultaneously.

15 A. So we had seen in the phone records in the aftermath of  
16 the burglary that New Year's that Michael Sinatra and Anthony  
17 Gerace were on the phone a lot. That there was -- seemed  
18 like that was a relationship there. The investigation  
19 indicated that also.

20 So, to prevent one from being able to tip the other off  
21 that we were out executing search warrants that morning, just  
22 do them both at the same time, prevents one from warning the  
23 other.

24 Q. Again, were you making efforts to keep these prongs of  
25 the investigation as limited as you -- as possible?

1 A. Yes.

2 Q. By that point in time, did you believe both Mr. Gerace  
3 and Mr. Sinatra had a nexus to the defendant?

4 A. Yes.

5 Q. At Anthony Gerace's house, can you describe the manner in  
6 which the search warrant was executed? So just go through  
7 the process of entry and then the steps that occurred.

8 A. Yes. So the initial entry was done by an HSI tactical  
9 team. They go through and they're searching the house for  
10 people. It's a process we call clearing. And once they  
11 determine -- once they've found all the people that are in  
12 the house, in this case it was Anthony, his girlfriend and  
13 their child, and have those people secured, they're in a  
14 secure place, the next step is to photograph the residence.

15 I think that morning we ran a drug dog through the  
16 residence, so a K-9 unit that can detect controlled  
17 substances.

18 And then after photographs were done and that's done,  
19 search teams are assigned, the rooms were all identified, and  
20 we began searching the house in pairs.

21 Q. What's the purpose of photographing things in the house?

22 A. To document the way we found the house.

23 Q. As the lead case agent on that search warrant, did you  
24 observe and review all the evidence that was collected at the  
25 scene?

10:24AM 1 A. Yes.

10:24AM 2 Q. What evidence did you observe?

10:24AM 3 A. There was firearms, vegetable -- so plant marijuana --

10:24AM 4 THC oil, vape cartridges, THC edible gummies.

10:24AM 5 Q. Is THC the active ingredient in marijuana?

10:24AM 6 A. Yes, I'm sorry, tetrahydrocannabinol.

10:24AM 7 Q. Are these controlled substances federally?

10:24AM 8 A. Schedule I controlled substances.

10:24AM 9 Q. Okay. Please continue.

10:24AM 10 A. More currency. There were some books and records

10:25AM 11 type-evidence.

10:25AM 12 Q. Was there ammunition?

10:25AM 13 A. There was.

10:25AM 14 Q. When you say books and records, are you describing like a

10:25AM 15 ledger or a log of names?

10:25AM 16 A. There was a ledger with names, it looked like a

10:25AM 17 Super Bowl Squares ledger. And then when I say books and

10:25AM 18 records to, I also mean, you know, like a utility bill that

10:25AM 19 has the address and the name of the person to show who -- who

10:25AM 20 lives in the house, those types of things.

10:25AM 21 Q. And did you mention there were THC edibles?

10:25AM 22 A. Yes.

10:25AM 23 Q. I might have -- with respect to that -- that ledger, that

10:25AM 24 logbook, is that something that gets seized in a -- in a

10:25AM 25 narcotics investigation to try to identify relationships

1 among people?

2 A. Yes. In a conspiracy investigation.

3 Q. I want to show you some photographs now, okay?

4 A. Okay.

5 **MR. TRIPI:** I'll just read into the record what I'm  
6 handing up, Your Honor, and then I'll hand them up.

7 **BY MR. TRIPI:**

8 Q. So I'm going to hand you up Exhibit 72A-72, 72A-24,  
9 72A-25, 72A-37, 72A-42, 72A-44, 72A-45, 72A-46, 72A-48,  
10 72A-49, 72A-50, 72A-55, 72A-56, 72A-58, 72A-59, 72A-60,  
11 72A-61, 72A-62, 72A-77, 72A-111, and 72A-112.

12 I'm going to hand up all of those exhibits. If you could  
13 just take a look and when you're done looking through them,  
14 look up at me.

15 **BY MR. TRIPI:**

16 Q. Do you recognize each of those exhibits that I've handed  
17 up which I previously read into the record?

18 A. Yes.

19 Q. Do those fairly and accurately depict the location of  
20 Anthony Gerace's residence as well as the items you observed  
21 and that were seized during the search of Anthony Gerace's  
22 residence on January 28th, 2019?

23 A. Yes, they do.

24 **MR. TRIPI:** The government offers those exhibits as  
25 I've read them into the record, Your Honor.



10:29AM

1

**MR. MacKAY:** No objection, Your Honor.

10:29AM

2

**THE COURT:** They are all received without objection.

10:29AM

3

**MR. TRIPI:** Thank you.

10:29AM

4

(GOV Exhibits 72A-72, 72A-24, 72A-25, 72A-37, 72A-42, 72A-44,

10:29AM

5

72A-45, 72A-46, 72A-48, 72A-49, 72A-50, 72A-55, 72A-56,

10:29AM

6

72A-58, 72A-59, 72A-60, 72A-61, 72A-62, 72A-77, 72A-111, and

10:29AM

7

72A-112 were received in evidence.)

10:29AM

8

**BY MR. TRIPI:**

10:29AM

9

Q. I'd like to go through these photos with you, okay?

10:29AM

10

A. Yes.

10:29AM

11

**MR. TRIPI:** Ms. Champoux, can we start and please

10:29AM

12

pull up first 72A-72.

10:29AM

13

**BY MR. TRIPI:**

10:29AM

14

Q. So, again, this is January 28th, 2019; is that right?

10:29AM

15

A. Yes.

10:29AM

16

Q. And what residence is that?

10:29AM

17

A. That's 9070 Michael Douglas Drive, Anthony's.

10:29AM

18

Q. That's in Clarence, New York?

10:29AM

19

A. Yes.

10:29AM

20

Q. And we have it looks to be like a typical Buffalo winter,

10:29AM

21

right?

10:30AM

22

A. It was a cold day.

10:30AM

23

Q. Before I go through these photos further, just can you

10:30AM

24

describe the your flow through the residence and what

10:30AM

25

happened, just what you saw as you entered.

10:30AM 1 A. Oh. I -- well, I mean, I went inside -- I had  
10:30AM 2 actually -- I had talked to members of the tactical team  
10:30AM 3 outside before I went in.  
10:30AM 4 Q. Okay.  
10:30AM 5 A. And they were telling me some of the things that they had  
10:30AM 6 observed while they were going through the house.  
10:30AM 7 Q. And then did you walk through those areas?  
10:30AM 8 A. Yes.  
10:30AM 9 Q. Okay. And did you see the items that they had debriefed  
10:30AM 10 you on?  
10:30AM 11 A. Yes.  
10:30AM 12 Q. And where was Mr. Gerace situated at that point, if you  
10:30AM 13 recall?  
10:30AM 14 A. It was in the dining room, which is the -- the front  
10:30AM 15 corner of the home to the right of the door as we're looking  
10:30AM 16 at this picture.  
10:30AM 17 Q. Okay. Did you make your way eventually down to the  
10:30AM 18 basement area?  
10:30AM 19 A. Yes.  
10:30AM 20 Q. Okay. I'm going to show you Exhibit 72A-24 next.  
10:31AM 21 And can you tell the jury what they're looking at here.  
10:31AM 22 A. So that's a storage closet. That was underneath the  
10:31AM 23 basement stairs, you know, by the void by the stairs coming  
10:31AM 24 down.  
10:31AM 25 And those boxes were there, the black shiny plastic in

1 the top of that open box is the packaging for the THC oil  
2 cartridges.

3 Q. Can you circle it so the jury knows what you're  
4 referencing.

5 **MR. TRIPI:** May the record reflect that the witness  
6 placed a temporary circle in the -- directly in the center of  
7 Exhibit 72A-24.

8 **THE COURT:** It does.

9 **MR. TRIPI:** Thank you.

10 **BY MR. TRIPI:**

11 Q. And what were in those other boxes, other items that you  
12 just described as -- as items that's were seized?

13 A. Yeah. Firearms in those cases behind. The gummies were  
14 in there also.

15 Q. When you say gummies?

16 A. The THC gummies.

17 Q. Let's move on to Exhibit 72A-25, please.

18 And is this a more focused view on some of the firearms  
19 that were in the classes there?

20 A. Yes.

21 Q. Did you also make your way to Mr. Anthony Gerace's  
22 bedroom?

23 A. Yes.

24 Q. In there, did you see evidence of currency as well as  
25 firearm evidence in the bedroom area?

1 A. Yes. There was currency in a drawer in the nightstand  
2 next to the bed. And then in the closet in that bedroom,  
3 there were several firearms and then some more packaged  
4 currency.

5 **MR. TRIPI:** Okay. If we can publish 72A-37, please.

6 **BY MR. TRIPI:**

7 Q. Can you tell the jury what's depicted in this photo?

8 A. That's the nightstand drawer that I mentioned and the  
9 currency that was there.

10 **MR. TRIPI:** Can we move on to 72A-42.

11 **BY MR. TRIPI:**

12 Q. What's depicted in that photo?

13 A. That's rifle ammunition.

14 **MR. TRIPI:** Go on to 72A-44, please.

15 **BY MR. TRIPI:**

16 Q. And what's depicted in that photo?

17 A. That's an inside suit pocket of a coat that was hanging  
18 in the closet and that plastic bag had a couple pills in it.

19 **MR. TRIPI:** Let's go to 72A-45.

20 **BY MR. TRIPI:**

21 Q. Is this a different men's coat in the closet?

22 A. Same closet. And that, there's a syringe in that plastic  
23 wrapper and then the box says AndroTest 250, which is  
24 testosterone.

25 Q. So basically steroids?

1 A. Um-hum.

2 Q. Is that yes?

3 A. Yes.

4 **MR. TRIPI:** Let's go to 72A-46.

5 **BY MR. TRIPI:**

6 Q. What's depicted in that photo?

7 A. So that's a shelf in the closet, and that's the packaged  
8 currency that I mentioned before.

9 Q. Now, is there anything, based on your training and  
10 experience, significant about the manner in which these bills  
11 were packaged?

12 A. Yes. That's how I have seen currency packaged many times  
13 during drug investigations.

14 Q. When you're dealing with sort of bulk currency?

15 A. Bulk currency.

16 Q. Was this vacuum sealed?

17 A. It was, if you zoom in.

18 **MR. TRIPI:** Ms. Champoux, can we zoom in on just the  
19 money, please?

20 **THE WITNESS:** So that way the kind of snakeskin look  
21 over the money, that's a bag, that vacuum-seal bag, similar to  
22 the way bulk marijuana is packaged.

23 **MR. TRIPI:** We can zoom out of that, Ms. Champoux.

24 Thank you.

25 Can we please publish Exhibit 72A-48.

10:35AM

1

**BY MR. TRIPI:**

10:35AM

2

Q. Describe what is depicted in that photo.

10:35AM

3

A. That's a handgun that was in that closet in the upstairs

10:35AM

4

bedroom.

10:35AM

5

Q. Does that also have ammunition in a magazine there?

10:35AM

6

A. Yes.

10:35AM

7

**MR. TRIPI:** And let's go to 72A-49, please.

10:35AM

8

**BY MR. TRIPI:**

10:35AM

9

Q. Tell the jury what's depicted in this photo.

10:35AM

10

A. Still in that upstairs closet, that's another handgun

10:36AM

11

with a magazine and ammunition.

10:36AM

12

**MR. TRIPI:** And let's go to 72A-50.

10:36AM

13

**BY MR. TRIPI:**

10:36AM

14

Q. Is that another view of that handgun?

10:36AM

15

A. I think it's a different one. Can you go back?

10:36AM

16

Q. Oh, I'm sorry.

10:36AM

17

**MR. TRIPI:** Can we put 72A-49 and 50 next to each

10:36AM

18

other, Ms. Champoux?

10:36AM

19

**THE WITNESS:** No, that's a different case and a

10:36AM

20

different handgun.

10:36AM

21

**MR. TRIPI:** Okay. Thank you.

10:36AM

22

Can we go to 72A-55.

10:36AM

23

**BY MR. TRIPI:**

10:36AM

24

Q. And tell the jury what's depicted here.

10:36AM

25

A. It's a -- it's a spiral notebook, and it's a list a names

1 for Super Bowl squares.

2 **MR. TRIPI:** We're going to come back to that in just  
3 a moment.

4 Can we go to 72A-56, please.

5 **BY MR. TRIPI:**

6 Q. What do you see there?

7 A. It's the poster of the actual squares and appears to go  
8 with the list. So it's for a Philadelphia Eagles/New England  
9 Patriots Super Bowl.

10 Q. Does that appear to be like a high stakes Super Bowl  
11 squares?

12 A. \$10,000 a square -- or, no, what is it? It's high  
13 stakes, for sure.

14 **MR. TRIPI:** Can we go to Exhibit 72A-58, please.

15 **BY MR. TRIPI:**

16 Q. Tell the jury what's depicted in that photo.

17 A. The THC gummies. The edible gummies.

18 **MR. TRIPI:** Let's go to 72A-59.

19 **BY MR. TRIPI:**

20 Q. Tell the jury what's depicted in that photo.

21 A. That's another picture of the edible THC gummies.

22 Q. And now we're looking at some of the boxes that were in  
23 the basement under the stairs?

24 A. Yes.

25 Q. These boxes have now been opened up for photographic

1 purposes?

2 A. Yes.

3 **MR. TRIPI:** Let's go to 72A-60.

4 **BY MR. TRIPI:**

5 Q. Tell the jury what's depicted in that photo.

6 A. Tikka is a rifle manufacturer. That's a box for a rifle.

7 We did collect a Tikka rifle from the house that day.

8 **MR. TRIPI:** Let's show 72A-61, please.

9 **BY MR. TRIPI:**

10 Q. Tell the jury what's depicted there.

11 A. That's another view inside the boxes under the stairs and

12 this is -- one of the boxes with the THC vape cartridges

13 opened up to give a better view.

14 **MR. TRIPI:** Let's move on to 72A-62.

15 **BY MR. TRIPI:**

16 Q. Tell the jury what's depicted there.

17 A. Black duffle bag about the size of a hockey bag with

18 sealed packages of the vegetable marijuana.

19 Q. And was this located under the stairs as well in the

20 basement?

21 A. It was in the basement, yes.

22 **MR. TRIPI:** Let's go to 72A-77, please.

23 **BY MR. TRIPI:**

24 Q. Tell the jury what's depicted there.

25 A. It's a Smith & Wesson AR-15-style rifle that was in the



1 basement.

2 Q. So that was in proximity to the drug evidence in the  
3 basement?

4 A. Yes.

5 Q. So was that Tikka rifle?

6 A. I'm not -- I don't recall if the Tikka was one of the  
7 ones in the cases behind the marijuana or not.

8 **MR. TRIPI:** Let's pull up --

9 **THE WITNESS:** I'd have to look at the picture again.

10 **MR. TRIPI:** Okay. We'll move on. Let's go to  
11 72A-111, please.

12 **BY MR. TRIPI:**

13 Q. Tell the jury what they're looking at here.

14 A. So this is when we're processing the evidence back at the  
15 HSI office, it's all the bags of the vegetable marijuana  
16 pulled out and arranged for a photograph.

17 **MR. TRIPI:** Can we put 72A-112 next to this,  
18 Ms. Champoux.

19 **THE WITNESS:** That's the -- the remaining that we  
20 weren't able to fit into the first photograph.

21 **BY MR. TRIPI:**

22 Q. Based on your experience, did the -- the marijuana, the  
23 THC products that you found in the residence, did it have a  
24 considerable street value?

25 A. Yes.

1 Q. In summary, how many firearms were seized from Anthony  
2 Gerace's residence?

3 A. 14.

4 Q. How many rounds of ammunition were seized?

5 A. 562.

6 Q. How many THC oil vape cartridges?

7 A. 991.

8 Q. How many edible marijuana gummy packages?

9 A. 394.

10 Q. How many kilograms of marijuana?

11 A. 7.9.

12 Q. How many pills?

13 A. Just a couple, two maybe.

14 Q. Did that turn out to be Alprazolam?

15 A. Yes, sir.

16 Q. Is that a controlled substance?

17 A. It is.

18 **MR. TRIPI:** Your Honor, this is going to take a  
19 moment to get some of this stuff ready. Is it too early for  
20 take a break?

21 **THE COURT:** It is too early. It's been less than an  
22 hour, so --

23 **MR. TRIPI:** Sorry about that.

24 Getting my exercise this morning, Your Honor.

25 Ms. Champoux, can we pull up Government Exhibit

1 72A-24 and 25 next to one another.

2 And for the record, I'm handing up Government  
3 Exhibit 78-1 for the witness.

4 **BY MR. TRIPI:**

5 Q. Take a moment to look at that. Would you like gloves?  
6 Are you okay?

7 A. I'm okay.

8 Q. You can stand up if you need to.

9 Starting with Exhibit 78-1, do you recognize that?

10 A. Yes.

11 Q. What do you recognize it to be?

12 A. That's a box from the Anthony Gerace search warrant, one  
13 of the boxes that was under the stairs containing the THC  
14 vape oil cartridges.

15 Q. Is that depicted in 72A-24 in the photo?

16 A. Yes.

17 Q. Other than labelling and markings related to production  
18 here in court, is it in the same or substantially same  
19 condition today as when it was recovered from Mr. Gerace's  
20 residence?

21 A. Yes.

22 **MR. TRIPI:** Next I'm going to hand up 78-2,  
23 Your Honor.

24 Handing up Exhibit 78-2 for the witness now.  
25

10:45AM

1

**BY MR. TRIPI:**

10:45AM

2

Q. Do you recognize Government Exhibit 78-2?

10:45AM

3

A. Yes.

10:45AM

4

Q. What do you recognize it to be?

10:45AM

5

A. It's the second box from the photograph from under the stairs on the right-hand side.

10:45AM

6

10:45AM

7

Q. Some more THC cartridges?

10:45AM

8

A. Yes.

10:45AM

9

Q. Other than any labelling due to handling in court, is it in the same or substantially same condition today as when it was recovered from Anthony Gerace's residence January 28th, 2019?

10:45AM

10

10:45AM

11

10:45AM

12

10:45AM

13

A. Yes, it is.

10:45AM

14

Q. And a sample of these were sent to the lab, tested and confirmed to be THC?

10:46AM

15

10:46AM

16

A. Yes.

10:46AM

17

**MR. TRIPI:** The government offers Exhibit 78-1 and 2, Your Honor.

10:46AM

18

10:46AM

19

**MR. MacKAY:** No objection.

10:46AM

20

**THE COURT:** Received without objection.

10:46AM

21

**(GOV Exhibits 78-1 and 78-2 were received in evidence.)**

10:46AM

22

**MR. TRIPI:** I'll do my best to publish to the jury without spilling them.

10:46AM

23

10:46AM

24

**BY MR. TRIPI:**

10:46AM

25

Q. I don't think I asked you this yet. Before I get to the

1 next exhibit, how much total currency was seized from Anthony  
2 Gerace's residence?

3 A. \$103,360.

4 **MR. TRIPI:** For the record, handing up Exhibit 79,  
5 Your Honor.

6 **BY MR. TRIPI:**

7 Q. Do you recognize Exhibit 79?

8 A. Yes.

9 **MR. TRIPI:** Ms. Champoux, can we pull up  
10 Exhibit 72A-58 and 59 side by side.

11 72A-58 and 59 side by side.

12 **BY MR. TRIPI:**

13 Q. While she's doing that, what do you recognize Exhibit 79  
14 to be?

15 A. The edible THC gummies we seized at Anthony Gerace's  
16 house.

17 Q. And again, a portion of those were tested and confirmed  
18 to be THC?

19 A. Yes.

20 Q. Other than any changes due to handling for court  
21 purposes, is it the same or substantially same condition  
22 today as it was when it was seized from Anthony Gerace's  
23 residence back on January 28th, 2019?

24 A. Yes.

25 **MR. TRIPI:** The government offers Exhibit 79,

1 Your Honor.

2 **MR. MacKAY:** No objection.

3 **THE COURT:** Received without objection.

4 **(GOV Exhibit 79 was received in evidence.)**

5 **BY MR. TRIPI:**

6 Q. This is the 394 packages of edible marijuana gummies?

7 A. Yes.

8 **MR. TRIPI:** I'll publish it as best I can for the  
9 jury, Your Honor.

10 **BY MR. TRIPI:**

11 Q. Do you want to hold one up for them so they can see one  
12 from there. Turn it around.

13 Does it have the amount of milligrams like right on the  
14 packaging of THC?

15 A. It does. It says 400 milligrams THC. Made in LA.

16 Q. Okay. Can you put it down?

17 Special Agent Ryan, where did you say the packaging label  
18 said it was made?

19 A. LA, Los Angeles.

20 Q. Los Angeles? So California?

21 A. Yes.

22 **MR. TRIPI:** Could I have Exhibit 77, please.

23 I almost threw it everywhere. It's a lot lighter.

24 Handing you Exhibit 77, please take a look at that.

25 Exhibit 77.

10:50AM  
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**BY MR. TRIPI:**

Q. Do you recognize that?

A. Yes.

Q. What do you recognize it to be?

A. It's the plant marijuana we seized from Anthony Gerace's house.

Q. How do you recognize it?

A. From the evidence markings on the box, and then also the markings on the bags.

Q. Other than any changes due to handling in court, is it in the same -- it's been taken out of the duffle bags; is that fair to say?

A. Taken out of the duffle bags and then this evidence tape is here because we cut into the bags for sampling and then sealed -- resealed them.

**MR. TRIPI:** Ms. Champoux, while we're doing this, can you put up 72A-111 and 112 next to each other.

**BY MR. TRIPI:**

Q. And so a photograph of that day, you had taken it out of the duffle bags as well; is that right?

A. Yes.

Q. Other than -- again, is it in the same or substantially same condition today as the last time you observed it on the day it was seized?

A. Yes.

10:51AM 1 **MR. TRIPI:** The government offers Exhibit 77

10:51AM 2 Your Honor.

10:51AM 3 **MR. MacKAY:** No objection.

10:51AM 4 **THE COURT:** Received without objection.

10:51AM 5 **(GOV Exhibit 77 was received in evidence.)**

10:51AM 6 **MR. TRIPI:** Publishing for the jury, Your Honor.

10:52AM 7 I'm going to take one out of the box and -- I'm so  
10:52AM 8 sorry.

10:52AM 9 **JUROR:** That's okay.

10:52AM 10 **MR. TRIPI:** Just one moment, please, Your Honor.

10:52AM 11 Ms. Champoux, can we pull up Government Exhibit  
10:52AM 12 72A-55.

10:53AM 13 **MR. MacKAY:** That's the ledger?

10:53AM 14 **MR. TRIPI:** Yeah.

10:53AM 15 **BY MR. TRIPI:**

10:53AM 16 Q. Handing you up exhibit 75, is that the ledger that was  
10:53AM 17 seized that you referenced earlier that is depicted in  
10:53AM 18 Exhibit 72A-55?

10:53AM 19 A. Yes, it is.

10:53AM 20 Q. How do you recognize it?

10:53AM 21 A. I can see part of the ledger through the bag, here, and  
10:53AM 22 then also from the markings on the bag.

10:53AM 23 Q. Is that consistent with your case file numbers and all of  
10:53AM 24 that?

10:53AM 25 A. Yes.



1 Q. Is that in the same or substantially same condition today  
2 as the last time you observed it when it was seized?

3 A. Yes.

4 **MR. TRIPI:** The government offers Exhibit 75,  
5 Your Honor.

6 **MR. MacKAY:** No objection.

7 **THE COURT:** Received without objection.

8 **(GOV Exhibit 75 was received in evidence.)**

9 **MR. TRIPI:** Your Honor, I'm just going to remove the  
10 actual exhibit from the paperwork and so I can display it. I  
11 think it will be easier to show it on the ELMO as opposed to  
12 reading -- having the jury read it on an angle. I'll just  
13 take a moment to do that.

14 Do you have scissors up there?

15 **AGENT BURNS:** Switchblade.

16 **MR. TRIPI:** Oops.

17 **AGENT BURNS:** I was opening it for you.

18 **MR. TRIPI:** Having quite a morning, Your Honor.

19 If we can have the witness just open that for us.

20 **BY MR. TRIPI:**

21 Q. Does it appear that one page fell out of the notebook due  
22 to handling a moment ago?

23 A. Yes.

24 **MR. TRIPI:** Your Honor, I'm publishing Exhibit 75 on  
25 the ELMO including the loose page that was depicted in the

1 photo.

2 **BY MR. TRIPI:**

3 Q. Okay. I'd like to go through some of these names with  
4 you, okay?

5 A. Yes.

6 Q. Do you see entry number 6, Matt LoTempio?

7 A. Yes.

8 Q. Is that a name that you're familiar with through the  
9 investigation?

10 A. Yes.

11 Q. Is that an individual associated with Ron Serio?

12 A. Yes.

13 Q. Do you see entry number 10, Peter Gerace Jr.?

14 A. Yes.

15 Q. Is that Anthony's brother?

16 A. Yes.

17 Q. He's the owner of Pharaoh's Gentlemen's Club?

18 A. That's correct.

19 Q. Do you see entry number 14?

20 A. Yes.

21 Q. What name is that?

22 A. Wayne.

23 Q. Is there a Wayne Anderson involved in this case?

24 A. Yes.

25 Q. Is that actually that person Wayne Anderson the file

10:56AM 1 title of DEA file C2-13-0026?

10:56AM 2 A. Yes, he is.

10:56AM 3 Q. 15, we see Peter Gerace Jr. again?

10:56AM 4 A. Yes.

10:56AM 5 Q. 18, we see Matt LoTempio again?

10:56AM 6 A. Yes.

10:56AM 7 Q. 23, we see a Russell Jr.?

10:56AM 8 A. Yes.

10:56AM 9 Q. Was there a Russell Salvatore that came up in this case?

10:56AM 10 A. Yes.

10:56AM 11 Q. Number 26, do you see the name, Tom Napoli?

10:56AM 12 A. Yes.

10:56AM 13 Q. Who is that?

10:56AM 14 A. At one time was the defendant's brother-in-law.

10:57AM 15 Q. I'd like to look at the next row beginning at 34 now.

10:57AM 16 Do you see a name at number 41? Can you read that name?

10:57AM 17 A. Brent Phillips.

10:57AM 18 Q. And how about at number 42?

10:57AM 19 A. Peter Gerace Jr. again.

10:57AM 20 Q. Do you see number 53?

10:57AM 21 A. Yes. It says Marcus.

10:57AM 22 Q. Is there a person named Marcus Black associated with

10:57AM 23 Pharaoh's that came up in this case?

10:57AM 24 A. Yes.

10:57AM 25 Q. Now directing your attention to that last row.

10:58AM 1 Second row down at the bottom there, do you see another  
10:58AM 2 entry for number 66, Wayne?  
10:58AM 3 A. Yes.  
10:58AM 4 Q. Turning to the next page now. Do you see another list of  
10:58AM 5 three columns?  
10:58AM 6 A. Yes, I do.  
10:58AM 7 Q. On this page, do you see again entry number 6 for a Matt  
10:59AM 8 Lo?  
10:59AM 9 A. Yes.  
10:59AM 10 Q. Is there a Matt LoTempio associated with Ron Serio?  
10:59AM 11 A. Yes.  
10:59AM 12 Q. Entry number 8, read that name?  
10:59AM 13 A. Ron Serio.  
10:59AM 14 Q. Entry Number 9, there's another entry for Marcus; is that  
10:59AM 15 right?  
10:59AM 16 A. Correct.  
10:59AM 17 Q. Entry 10, is that Peter Gerace Jr.'s name?  
10:59AM 18 A. Yes.  
10:59AM 19 Q. Entry 14, is that Wayne?  
10:59AM 20 A. Yes.  
10:59AM 21 Q. Is that consistent with a Wayne Anderson who's part of  
10:59AM 22 this case?  
10:59AM 23 A. Yes.  
10:59AM 24 Q. And you know him to be connected to Anthony Gerace as  
10:59AM 25 well?

10:59AM 1 A. Yes.

10:59AM 2 Q. Number 20, do you see Dave Oddo?

10:59AM 3 A. Yes.

10:59AM 4 Q. Do you see Dave Oddo's name entered again at Entry

10:59AM 5 Number -- or Number 28?

10:59AM 6 A. Yes.

10:59AM 7 Q. Now, based on your review of the file C2-13-0026, Dave

11:00AM 8 Oddo was one of the individuals that the defendant filled out

11:00AM 9 a DEA-202 form adding him to the case on December 24th, 2012;

11:00AM 10 is that right?

11:00AM 11 A. That's correct.

11:00AM 12 Q. Second row -- or second column, I apologize. Do you see

11:00AM 13 an entry again, Number 37, for Ron Serio?

11:00AM 14 A. Yes.

11:00AM 15 Q. Do you see another entry for Pete G. Jr.?

11:00AM 16 A. 42, yes.

11:00AM 17 Q. Do you believe that to be Peter Gerace Jr.?

11:00AM 18 A. Yes.

11:00AM 19 Q. Do you see an entry number 53 for a Jordy Wolfson?

11:00AM 20 A. Yes.

11:00AM 21 Q. Is there a Jordan Wolfson you know to be associated with

11:00AM 22 Kevin Myszka in this matter?

11:00AM 23 A. Yes.

11:00AM 24 Q. Number 54, Marcus again?

11:00AM 25 A. Yes.

11:00AM 1 Q. Number 60, Dave Oddo again?

11:00AM 2 A. Yes.

11:01AM 3 Q. Number 66, is that Wayne again?

11:01AM 4 A. It is.

11:01AM 5 Q. Who's at entry number 91?

11:01AM 6 A. I'm not able to see 91.

11:01AM 7 Ron Serio.

11:01AM 8 Q. Publishing it one more time, there's an entry for number

11:01AM 9 86. Do you see an name there?

11:01AM 10 A. Mike Sinatra.

11:02AM 11 Q. Now, earlier --

11:02AM 12 **MR. TRIPI:** We can switch back to the computer now.

11:02AM 13 Thank you very much.

11:02AM 14 **BY MR. TRIPI:**

11:02AM 15 Q. Earlier you mentioned that Anthony Gerace's girlfriend

11:02AM 16 was present at the search warrant?

11:02AM 17 A. Yes.

11:02AM 18 Q. What was her name or what is her name?

11:02AM 19 A. Lauren Seitz.

11:02AM 20 Q. And can you describe the scenario as it played out as you

11:02AM 21 were -- withdrawn.

11:02AM 22 Did you arrest Anthony Gerace?

11:02AM 23 A. Yes.

11:02AM 24 Q. Was he charged ultimately that day by -- by complaint?

11:02AM 25 A. Yes.

1 Q. As you were walking Anthony Gerace out of the residence,  
2 did he -- did he direct his girlfriend to do something?

3 A. Yes.

4 Q. What did you hear Anthony Gerace say to Lauren?

5 A. Call Peter.

6 Q. Who did you understand the reference Peter to be of?

7 A. His brother, Peter.

8 Q. So after you seized 14 guns, 562 rounds of ammunition,  
9 991 THC cartridges, 394 edible marijuana packages, 7.9 kilos  
10 of marijuana and over \$103,000, Anthony told Lauren to call  
11 Peter?

12 A. Yes.

13 **MR. TRIPI:** Would you like to take a break now,  
14 Your Honor. I'm just moving to another area. It's up to you.

15 **THE COURT:** Okay. Yeah, we can take a break now.

16 We'll take our morning break. Remember my  
17 instructions about not talking about the case even with each  
18 and not making up your mind.

19 We'll see you back here in about 15 minutes.

20 (Jury excused at 11:04 a.m.)

21 **THE COURT:** Anything before we break?

22 **MR. TRIPI:** No, thank you, Your Honor.

23 **THE COURT:** Anything?

24 **MR. MacKAY:** No, Your Honor.

25 **THE COURT:** Okay. See you in a few minutes.

11:04AM 1 **THE CLERK:** All rise.

11:04AM 2 (Off the record at 11:04 a.m.)

11:20AM 3 (Back on the record at 11:20 a.m.)

11:20AM 4 (Jury not present.)

11:20AM 5 **THE CLERK:** All rise.

11:20AM 6 **THE COURT:** Please be seated.

11:20AM 7 **THE CLERK:** We are back on the record for the

11:20AM 8 continuation of the jury trial in case number 19-cr-227,

11:21AM 9 United States of America versus Joseph Bongiovanni.

11:21AM 10 All counsel and parties are present.

11:21AM 11 **THE COURT:** Anything for the record before we resume?

11:21AM 12 **MR. MacKAY:** No, Your Honor.

11:21AM 13 **MR. TRIPI:** No, Your Honor. Thank you.

11:21AM 14 **THE COURT:** Great. Let's bring them back, please,

11:21AM 15 Pat.

11:22AM 16 (Jury seated at 11:22 a.m.)

11:22AM 17 **THE COURT:** The record will reflect all our jurors,

11:22AM 18 again, are present. I remind the witness, he's still under

11:22AM 19 oath.

11:22AM 20 Mr. Tripi, you may continue.

11:23AM 21 **MR. TRIPI:** Thank you, Your Honor.

11:23AM 22 **BY MR. TRIPI:**

11:23AM 23 Q. Special Agent Ryan -- or I should say Resident Agent in

11:23AM 24 Charge Ryan, after that August 1st, 2018 reporting by Special

11:23AM 25 Agent Casullo regarding the race-related statements as well



11:23AM 1 as the proffer by Mr. Serio that had happened a couple weeks  
11:23AM 2 earlier, when DOJ Office of Inspector General or DOJ OIG came  
11:23AM 3 in to the case, was there a portion of the investigation  
11:23AM 4 focused on those race-related statements as well as  
11:23AM 5 Mr. Bongiovanni's relationship with Peter Gerace?  
11:23AM 6 A. Yes.  
11:23AM 7 Q. But you were working in tandem at that point?  
11:23AM 8 A. Yes.  
11:23AM 9 Q. As part of the investigation, did Department of Justice  
11:23AM 10 Office of Inspector General acquire memoranda that the  
11:23AM 11 defendant wrote to his DEA supervisors and submit it prior to  
11:23AM 12 his retirement?  
11:23AM 13 A. Yes, they did.  
11:23AM 14 Q. As part of the investigation, were those made available  
11:24AM 15 to you for review?  
11:24AM 16 A. Yes.  
11:24AM 17 Q. Was there a memo submitted by Defendant Bongiovanni to  
11:24AM 18 his DEA management on November 1st, 2018?  
11:24AM 19 A. Yes.  
11:24AM 20 Q. Was there a memo submitted by the defendant to his DEA  
11:24AM 21 management on December 10th, 2018?  
11:24AM 22 A. Yes.  
11:24AM 23 Q. Was there a memo submitted by the defendant to his  
11:24AM 24 management on January 28th, 2019?  
11:24AM 25 A. Yes.

1 Q. I'm going to hand you up Government Exhibits 97, 98, and  
2 99.

3 Do you recognize Exhibits 97, 98 and 99 to be the memos  
4 that I just referenced?

5 A. Yes.

6 Q. Do they fairly and accurately depict the memos that the  
7 defendant submitted to his management and were acquired by  
8 Department of Justice OIG and reviewed by you?

9 A. Yes.

10 **MR. TRIPI:** The government offers Government Exhibits  
11 97, 98, and 99, Your Honor.

12 **MR. MacKAY:** No objections.

13 **THE COURT:** Received without objection.

14 **(GOV Exhibits 97, 98, and 99 were received in evidence.)**

15 **MR. TRIPI:** Thank you. I'm just going to take those  
16 back.

17 I'd like to start with Exhibit Number 97.

18 Ms. Champoux, can we pull that one up.

19 **BY MR. TRIPI:**

20 Q. I'd like to work through there with you, Special Agent  
21 Ryan. Can you read for the jury what the subject of this  
22 memorandum is?

23 A. Communication with Peter Gerace between June 30th and  
24 October 27th, 2018.

25 Q. And can you read for the jury the date of this

1 memorandum?

2 A. November 1st, 2018.

3 Q. Can you read who it was to?

4 A. It's to Edward A. Orgon, Jr., the Resident Agent in  
5 Charge in charge of the Buffalo Resident Office.

6 Q. And can you read who it's to?

7 A. Gregory R. Yensan, group supervisor, Buffalo Resident  
8 Office.

9 Q. And can you read who it's from?

10 A. Joseph Bongiovanni, Special Agent, Buffalo Resident  
11 Office.

12 **MR. TRIPI:** Okay. Ms. Champoux, can we just zoom in  
13 on paragraph -- the first paragraph for now.

14 **BY MR. TRIPI:**

15 Q. And could you read that paragraph that Mr. Bongiovanni  
16 wrote, please?

17 A. It was brought to my attention that Peter Gerace had  
18 become a target of a federal investigation. Based on the  
19 intelligence I have received, I have attempted to terminate  
20 all contact with Gerace.

21 It should be known that any contact I have had with  
22 Gerace in the past was minimal in person contact, and  
23 primarily consisted of a random telephonic communication  
24 based on the fact we were childhood friends. I would  
25 sometimes randomly encounter Gerace at a restaurant or golf

1 outing and have not made personal plans to meet him socially  
2 in several years.

3 **MR. TRIPI:** Ms. Champoux, could we keep that up and  
4 also pull up Government Exhibit 127, please.

5 Can we zoom in on --

6 **BY MR. TRIPI:**

7 Q. Do you see Government Exhibit 127 on the right there?

8 A. Yes.

9 Q. Do you see Mr. Bongiovanni?

10 A. Yes.

11 Q. Do you see who he's standing next to?

12 A. Peter Gerace in the red shirt.

13 **MR. TRIPI:** Ms. Champoux, can we zoom in on  
14 paragraph 1 and put it under the photo for a moment.

15 **BY MR. TRIPI:**

16 Q. Fast forwarding from this November 1st, 2018 memo, on  
17 December 12th, 2019, so almost a year later, did Homeland  
18 Security Investigations execute two federal search warrants,  
19 one at Pharaoh's Gentlemen's Club and one at Mr. Gerace's  
20 residence?

21 A. Yes.

22 Q. Initially that day were you at Mr. Gerace's residence?

23 A. I was.

24 Q. After you cleared from that location, did you make your  
25 way over to Pharaoh's Gentlemen's Club?

11:29AM 1 A. I did.

11:29AM 2 Q. Did you help with the search there?

11:29AM 3 A. I did, with the tail end of it.

11:29AM 4 Q. Did you find some evidence at Pharaoh's Gentlemen's Club?

11:29AM 5 A. Yes.

11:29AM 6 Q. I'm going to hand you up Government Exhibit 490A.

11:30AM 7 Do you recognize Exhibit 490A?

11:30AM 8 A. Yes.

11:30AM 9 Q. Is that a photograph of something that you recovered --

11:30AM 10 A. Yes.

11:30AM 11 Q. -- at Pharaoh's?

11:30AM 12 A. Yes. That's correct.

11:30AM 13 Q. How do you recognize it?

11:30AM 14 A. I recognize the picture.

11:30AM 15 Q. And does that picture fairly and accurately depict an

11:30AM 16 item you physically recovered from Pharaoh's?

11:30AM 17 A. Yes.

11:30AM 18 **MR. TRIPI:** The government offers Exhibit 490A,

11:30AM 19 Your Honor.

11:30AM 20 **MR. MacKAY:** No objection.

11:30AM 21 **THE COURT:** Received without objection.

11:31AM 22 **(GOV Exhibit 490A was received in evidence.)**

11:31AM 23 **MR. TRIPI:** Can we publish Exhibit -- Ms. Champoux,

11:31AM 24 can we publish Exhibit 490A with these two items? Can we do

11:31AM 25 all three?

1 All right. Let's zoom in on Exhibit 490A for a  
2 moment.

3 **BY MR. TRIPI:**

4 Q. Where did you find that -- that physical item?

5 A. In an upstairs room at Pharaoh's, so up the stairs near  
6 the employee entrance, and then there was a long hallway, and  
7 at the far end of the hallway, there was a -- it -- it dead  
8 ended into a room.

9 Q. Was it a frame -- is it in a frame indicating this was  
10 from a Cirque de Soleil at -- in Las Vegas?

11 A. Yes, it was in a commemorative frame from a show I think  
12 called Viva Elvis.

13 Q. Is the photo dated?

14 A. August 25th, 2011.

15 Q. And do you see Mr. Bongiovanni in the photo?

16 A. Yes.

17 Q. Can you circle him?

18 A. Yes.

19 Q. Do you see Mr. Gerace in the photo?

20 A. Yes.

21 Q. Can you circle him?

22 Do you see Tom Napoli in the photo?

23 A. I'm not sure if that's Tom or not.

24 Q. All right. I'll withdraw that question then, but do you  
25 see Mr. Gerace and Mr. Bongiovanni?

1 A. Yes.

2 **MR. TRIPI:** May the record reflect the witness has  
3 placed on Exhibit 498 two temporary electronic circles over  
4 the -- around Mr. Bongiovanni and Mr. Gerace's faces. It's to  
5 the middle and the right-hand side of the photo, Your Honor.

6 **THE COURT:** It -- it does.

7 **MR. TRIPI:** Fair enough. Okay.

8 Okay. I'm going to clear out of that.

9 If we could zoom out of that photo, Ms. Champoux and  
10 let's just go back to Exhibit 97 for a moment.

11 **BY MR. TRIPI:**

12 Q. Did the photo of them together in Las Vegas appear to you  
13 to be, like, a random, in-person contact?

14 A. No.

15 Q. Did the photo of them in the Exhibit 127, when they were  
16 in that photo, did that appear to be a random in-person  
17 contact?

18 A. No.

19 **MR. TRIPI:** Let's go to paragraph 2.

20 **BY MR. TRIPI:**

21 Q. Can you read that?

22 A. Over the past several months, I have received a series of  
23 phone calls from Gerace which I did not answer.

24 On October 23rd and October 27th, 2018, I received a  
25 series of text messages from Gerace, which was out of the

1 ordinary.

2 In the aforementioned text messages, Gerace seemed very  
3 concerned by my failure to return his calls or text messages,  
4 and was questioning why I did not return a social text  
5 inquiry.

6 **MR. TRIPI:** Let's go to paragraph 3, Ms. Champoux.

7 **BY MR. TRIPI:**

8 Q. Please read that.

9 A. In an effort to maintain a sense of novel activity and  
10 with hopes of not alerting Gerace that something may be  
11 wrong, I returned a text and stated that I was working  
12 midnights and was sorry for my large gaps of no  
13 communication.

14 I hoped that this reply would satisfy Gerace's curiosity  
15 as to my absence of returning calls and texts. Please see  
16 the attached text messages.

17 **MR. TRIPI:** Okay. Ms. Champoux, can we zoom back in  
18 on paragraph 1 again for a moment again and -- and also zoom  
19 in on paragraph 3.

20 And Ms. Champoux, can you highlight the sentence in  
21 the -- in the first zoom in, paragraph 1, where it says "it  
22 should be known that any contact," and highlight the rest of  
23 that sentence.

24 And then, Ms. Champoux, in the bottom, can you  
25 highlight where it says "in an effort to maintain a normal



1 sense of activity," that sentence?

2 That portion is fine.

3 **BY MR. TRIPI:**

4 Q. Special Agent Ryan, when you reviewed these memorandums  
5 and you looked at those two paragraphs, how -- how did you --  
6 what assessments did you make comparing Bongiovanni's  
7 statement that I have had -- "any contact I've had with  
8 Gerace in the past was minimal in-person and primarily  
9 consisted of random telephonic communications" with paragraph  
10 3 where he wrote "in an effort to maintain a sense of normal  
11 activity"?

12 **MR. MacKAY:** Objection, improper opinion.

13 **MR. TRIPI:** I asked what assessments he made.

14 **THE COURT:** I'm going to sustain the objection to the  
15 form of the question. So ask another question, please.

16 **BY MR. TRIPI:**

17 Q. Mr. Ryan, in -- in your view, are those two paragraphs  
18 consistent or inconsistent with each other?

19 A. They're inconsistent with each other.

20 **MR. TRIPI:** We can zoom out of those, Ms. Champoux.

21 Let's highlight --

22 **BY MR. TRIPI:**

23 Q. Just read that last sentence. We don't have to zoom in  
24 on it.

25 A. I have reported this unsolicited contact with Gerace to

1 my group supervisor, Gregory Yensan, and will continue to  
2 avoid any future contact.

3 Q. And so did the -- was there -- were there some  
4 attachments to this exhibit?

5 A. Yes, the text messages.

6 Q. And who -- who selected and provided the text messages?

7 A. Mr. Bongiovanni.

8 **MR. TRIPI:** Ms. Champoux, can we go to page 2 of  
9 Exhibit 97.

10 **BY MR. TRIPI:**

11 Q. And tell the jury what they're looking at here.

12 A. Screen prints of text messages from an iPhone, it looks  
13 like.

14 Q. So like photocopies of the actual texts?

15 A. I think they're probably screen captures that were  
16 printed out and then have since been photocopied.

17 Q. And did Mr. Bongiovanni write the date of the first  
18 entry?

19 A. Yes.

20 Q. What did he write?

21 A. June 30th, '18, for 2018.

22 Q. And did he write -- who wrote that text?

23 A. From me. So the dark texts are from his phone.

24 Q. And what did Mr. Bongiovanni write to the defendant on  
25 June 30th, 2018?

11:38AM 1 A. The first message?

11:38AM 2 Q. Yes.

11:38AM 3 A. Miss ya, bro. I'm going up to Sunset today.

11:38AM 4 Q. Do you have an understanding of what the reference to

11:38AM 5 Sunset is?

11:38AM 6 A. Sunset Beach on Lake Erie.

11:38AM 7 Q. And are there sort of, like, bars and cottages in that

11:38AM 8 area?

11:38AM 9 A. Yes.

11:38AM 10 Q. Under that, there's another text message. And who wrote

11:38AM 11 from Peter Gerace?

11:38AM 12 A. Mr. Bongiovanni.

11:38AM 13 Q. And what does that message say?

11:38AM 14 A. Do you have a cottage?

11:38AM 15 Q. And what did Mr. Bongiovanni respond?

11:38AM 16 A. No, just going up. Tommy Doc is in town and a couple of

11:38AM 17 Lindsay's friends.

11:38AM 18 **MR. TRIPI:** Okay. Ms. Champoux, next to this page,

11:38AM 19 can we pull up Exhibit 127 again. And can we zoom in on

11:38AM 20 Exhibit 127.

11:39AM 21 **BY MR. TRIPI:**

11:39AM 22 Q. Do you see that reference to Tommy Doc a moment ago in

11:39AM 23 the text messages?

11:39AM 24 A. Yes.

11:39AM 25 Q. Are you familiar with a former Buffalo police detective

1 named Tom Doctor?

2 A. Yes.

3 Q. As you understand it, is he a former DEA task force

4 officer?

5 A. Yes.

6 Q. Do you see him in the photo depicted in Exhibit 127?

7 A. Yes. In the sunglasses without a shirt on the left side

8 as I look at it.

9 Q. And in that photo, there's a circle around his face?

10 A. Yes.

11 Q. Okay.

12 **MR. TRIPI:** We can zoom back out of that,

13 Ms. Champoux.

14 **BY MR. TRIPI:**

15 Q. Oh. And the text message says "and a couple of Lindsay's

16 friends." Do you see Lindsay Bongiovanni with

17 Mr. Bongiovanni in that photo?

18 A. In front of him in the red shirt and white shorts.

19 **MR. TRIPI:** You can with zoom out of that.

20 **BY MR. TRIPI:**

21 Q. Does that appear to be a random telephonic communication

22 or chance encounter?

23 A. No.

24 **MR. TRIPI:** Let's go to page 3 of the Exhibit 97,

25 please.

11:39AM

1 **BY MR. TRIPI:**

11:40AM

2 Q. And what did Mr. Gerace write next in the thread that he  
3 defendant provided?

11:40AM

11:40AM

4 A. There's a girl from Las Vegas staying with me with some  
5 other chick that works for me. Let me see what they wanna  
6 do.

11:40AM

11:40AM

7 **MR. TRIPI:** Ms. Champoux, could we zoom back in on  
8 page -- Exhibit 127.

11:40AM

11:40AM

9 **BY MR. TRIPI:**

11:40AM

11:40AM

10 Q. Fast forwarding to April of 2019, did you interview a  
11 young lady named Phlycia Hunt?

11:40AM

11:40AM

12 A. Yes.

11:40AM

13 Q. Do you see her in the photo?

11:40AM

14 A. Yes.

11:40AM

15 Q. Can you please circle Ms. Hunt for us?

11:40AM

16 **MR. TRIPI:** May the record reflect the witness has  
17 placed a temporary circle on a woman who is fifth from the  
18 right to left near the center of the photo. She appears to  
19 have long brown hair in the photo.

11:40AM

11:40AM

11:40AM

11:41AM

20 **BY MR. TRIPI:**

11:41AM

21 Q. Did you -- did you understand Ms. Hunt to be someone who  
22 sometimes lived in Las Vegas but mainly was from Buffalo?

11:41AM

11:41AM

23 A. Yes.

11:41AM

24 **MR. TRIPI:** Okay. Let's go back to the text message.

25

11:41AM

1

**BY MR. TRIPI:**

11:41AM

2

Q. Is there a reference to a girl that's in town from Las

11:41AM

3

Vegas staying with me in Mr. Gerace's text?

11:41AM

4

A. Yes.

11:41AM

5

Q. Okay. What did Mr. Bongiovanni write under that that he

11:41AM

6

provided in this attachment?

11:41AM

7

A. I'll be cool for a happy hour anytime. I'm off the 4, 5,

11:41AM

8

6.

11:41AM

9

Q. Do you believe that to be a reference to July 4th, 5th,

11:41AM

10

and 6th?

11:41AM

11

A. Yes.

11:41AM

12

Q. Because this thread is June 30th, 2018, almost right

11:41AM

13

before the Fourth of July?

11:41AM

14

A. Yes.

11:41AM

15

Q. And what's the next portion of the text that we see on

11:41AM

16

this page at least that Mr. Bongiovanni writes?

11:41AM

17

A. Okay. We are going in the afternoon about 1 or 2.

11:41AM

18

Q. Does that indicate they're making plans to go to Sunset

11:41AM

19

Bay and meet each other?

11:41AM

20

A. Yes.

11:42AM

21

**MR. TRIPI:** Let's go to the next page of this

11:42AM

22

exhibit, Ms. Champoux, page 4 of Exhibit 97.

11:42AM

23

**BY MR. TRIPI:**

11:42AM

24

Q. Can we read what Mr. Gerace responds to the text from

11:42AM

25

Mr. Bongiovanni?

1 A. Is there that concert today? Heard it's going to be a  
2 zoo.

3 Q. And that's what Mr. Gerace wrote?

4 A. Yes.

5 Q. As labeled by the defendant, correct?

6 A. That's correct.

7 Q. And what did the defendant respond?

8 A. Don't know, but I'm sure it will be busy. We usually go  
9 to Cabana Sam.

10 Q. Is Cabana Sam a reference to a bar?

11 A. Yes.

12 **MR. TRIPI:** Let's go to the next page, page 5 of the  
13 text that Mr. Bongiovanni attached to the memo.

14 **BY MR. TRIPI:**

15 Q. What did Mr. Bongiovanni indicate next that Mr. Gerace  
16 wrote?

17 A. But I heard something on Facebook that there's a huge  
18 concert and they sold a couple thousand tickets and they were  
19 saying to get there early to park way down in 5. And then RT  
20 and then the number 5.

21 So, probably a reference to Route 5.

22 **MR. TRIPI:** Let's go to the next page, Ms. Champoux.  
23 We're on Exhibit 97, page 6, now.

24 **BY MR. TRIPI:**

25 Q. Can you read what Mr. Bongiovanni wrote?

1 A. Wow, and then there's an emoji, and then it says, I don't  
2 know, waiting for Lindsay. Maybe LOL, but there's a space in  
3 it or maybe it's I'll ask her. Probably I'll ask her.

4 Q. What did Mr. Gerace respond?

5 A. I thought it was this weekend because of the Fourth of  
6 July. Maybe I'm wrong. Maybe it's next weekend.

7 **MR. TRIPI:** And we'll go to the next page to start  
8 reading the next text.

9 Let's go to page 7.

10 **BY MR. TRIPI:**

11 Q. And what did Mr. Bongiovanni write next as referenced by  
12 him?

13 A. We are gonna see Fortini play on the 6th and I know  
14 there's a band playing then. But I don't think Fortini could  
15 pack 'em in to Route 5, and then an emoji.

16 Q. And what did Mr. Gerace write after that?

17 A. Ha, ha, ha. Only Joe Bong could do that.

18 Q. And did Mr. Bongiovanni respond?

19 A. He said, I'm like the old David Cassidy.

20 **MR. TRIPI:** Let's go to the next page.

21 **BY MR. TRIPI:**

22 Q. Can you pick it up from the response Mr. Gerace wrote?

23 A. Yeah. You and I feel like Milton Berle.

24 And then Mr. Bongiovanni says, LOL, Uncle Misty, and then  
25 corrects it to Uncle Milty.



11:45AM 1 **MR. TRIPI:** Let's go to page 9 please.

11:45AM 2 **BY MR. TRIPI:**

11:45AM 3 Q. What did Mr. Gerace write?

11:45AM 4 A. I'm thinking about taking them down to RiverWorks. Last  
11:45AM 5 time I was there was with you and Lindsay.

11:45AM 6 Then we went to Dock of the Bay. Remember we had to help  
11:45AM 7 Lindsay through the parking lot?

11:45AM 8 Q. And what does Mr. Bongiovanni write next in that thread  
11:45AM 9 that he provided?

11:45AM 10 A. Yes, I do. An then emoji. And then have fun, be safe.

11:45AM 11 Q. And what's the next --

11:45AM 12 **MR. TRIPI:** And go to the next page, please.

11:45AM 13 **THE WITNESS:** It says, Thanks brother, I'm home.  
11:45AM 14 From Peter.

11:45AM 15 **BY MR. TRIPI:**

11:45AM 16 Q. And then is there a response at 2:14 a.m.?

11:45AM 17 A. Yes, on July 1st. It says from Mr. Bongiovanni, glad you  
11:45AM 18 got home safe.

11:45AM 19 Q. Is there a text message that Mr. Bongiovanni provided on  
11:46AM 20 July 2nd, 2018?

11:46AM 21 A. The one from Mr. Gerace?

11:46AM 22 Q. Yes.

11:46AM 23 A. Yes. It says, Golf money due this week, 25th, Pharaoh's  
11:46AM 24 8th Annual Golf Outing, Wednesday, August 2nd. Kis-N-Green,  
11:46AM 25 Alden, limo buses, lunch and drinks, dinner after at

Pharaoh's. Shotgun start. Will get time this week.

**MR. TRIPI:** And can we go to the next page,  
Ms. Champoux?

**BY MR. TRIPI:**

Q. Is there another text that he attached there that he  
didn't appear to label?

A. Yes.

Q. What does it say?

A. 8th Annual Golf Outing, Wednesday, July 25th,  
Kis-N-Green. Buses leave Pharaoh's 9 a.m., shotgun 10 a.m.,  
pig roast at Pharaoh's after, \$600 per foursome, limited to  
128 golfers, first to pay are in.

**BY MR. TRIPI:**

Q. And as you understand it, does golf -- withdrawn.

Does Pharaoh's have annual golf outings?

A. Yes.

Q. Okay. Let's move on to the next page. Going to page 13  
of the exhibit.

Now Mr. Bongiovanni is labelling that this occurred on,  
looks like, October 23rd of '18; is that right?

A. Yes.

Q. And these are messages now from Mr. Gerace?

A. Yes.

Q. By this point in time, had -- as you understand it, had  
Mr. Bongiovanni become aware that his connection to

11:47AM 1 Mr. Gerace was under scrutiny as well as those race-related  
11:47AM 2 statements?

11:47AM 3 A. Yes.

11:47AM 4 Q. And so here by October of 2018, we don't see any  
11:47AM 5 responses from Mr. Bongiovanni in the text he provided; is  
11:47AM 6 that right?

11:47AM 7 A. That's correct.

11:47AM 8 Q. At least in this exhibit?

11:47AM 9 A. Right.

11:47AM 10 Q. But let's finish the pages. What does -- what does  
11:48AM 11 Mr. Gerace write on October 23rd, 2018?

11:48AM 12 A. Are you alive? Just get a new phone? Did you move out  
11:48AM 13 of town? What the fuck?

11:48AM 14 Q. And what was the next text Mr. Gerace sent on  
11:48AM 15 October 27th, 2018, as labeled here?

11:48AM 16 A. Is there a reason why you're not talking to me?

11:48AM 17 **MR. TRIPI:** Let's go to the next page, page 14 of the  
11:48AM 18 exhibit.

11:48AM 19 **BY MR. TRIPI:**

11:48AM 20 Q. Did Mr. Bongiovanni respond to that one on October 27th?

11:48AM 21 A. Dude. Sorry, been working midnights and I've been  
11:48AM 22 sleeping till 3 or 4. Sorry, my bad.

11:48AM 23 Q. What did Mr. Gerace respond as indicated in this exhibit?

11:48AM 24 A. Okay. I'm just making sure, brother.

11:48AM 25 Q. And what did Mr. Bongiovanni respond?

11:48AM 1 A. Hope all is well. You're not the only one mad at me.

11:48AM 2 LOL.

11:48AM 3 **MR. TRIPI:** Let's go to the next page of this  
11:49AM 4 exhibit, page 15.

11:49AM 5 **BY MR. TRIPI:**

11:49AM 6 Q. What's the next message that Mr. Gerace wrote?

11:49AM 7 A. I'm not mad, brother. Just keep in touch.

11:49AM 8 Q. Is there a photo attached?

11:49AM 9 A. Yes.

11:49AM 10 Q. Were you able to make out who's in these photos?

11:49AM 11 A. Peter's in that one. I would need to see the one that  
11:49AM 12 wasn't photocopied.

11:49AM 13 **MR. TRIPI:** Let's go to the next page, page 16.

11:49AM 14 Can we rotate that, Ms. Champoux?

11:49AM 15 **BY MR. TRIPI:**

11:49AM 16 Q. Is that another photo that was attached to the text  
11:49AM 17 thread that Mr. Bongiovanni indicated was from Mr. Gerace?

11:49AM 18 A. Yes.

11:49AM 19 Q. Now -- now, who -- who selected the text messages to  
11:49AM 20 attach to this memo?

11:49AM 21 A. Mr. Bongiovanni.

11:49AM 22 Q. Who selected how far to go back?

11:49AM 23 A. Mr. Bongiovanni.

11:50AM 24 **MR. TRIPI:** Okay. We can take 97 down, Ms. Champoux,  
11:50AM 25 and let's move on to Exhibit 98.

11:50AM

1

**BY MR. TRIPI:**

11:50AM

2

Q. What date did he write the memo that's depicted in

11:50AM

3

Exhibit 98?

11:50AM

4

A. December 10th, 2018.

11:50AM

5

Q. So, basically a month and ten days or so later than the

11:50AM

6

first memo?

11:50AM

7

A. Yes.

11:50AM

8

Q. Separately, was your investigation continuing?

11:50AM

9

A. Yes.

11:50AM

10

Q. And who did Mr. Bongiovanni write this memo to?

11:50AM

11

A. Edward Orgon, Jr., Resident Agent in Charge, Buffalo

11:50AM

12

Resident Office.

11:50AM

13

Q. And can you read that first sentence there?

11:50AM

14

A. Reference memorandum dated November 1st, 2018, titled

11:50AM

15

Communication With Peter Gerace.

11:50AM

16

Q. So, does that indicate this is purporting to be a

11:50AM

17

continuation of that memorandum, like an update?

11:50AM

18

A. Yes.

11:50AM

19

Q. And the way it's written there, does it indicate it's

11:51AM

20

incorporating the first memo essentially by reference into

11:51AM

21

this one?

11:51AM

22

A. Yes.

11:51AM

23

**MR. TRIPI:** Ms. Champoux, can we zoom in on the next

11:51AM

24

paragraph under that.

25

11:51AM 1 **BY MR. TRIPI:**

11:51AM 2 Q. Can you read what Mr. Bongiovanni wrote in this memo for  
11:51AM 3 the jury in paragraph 1, the first full paragraph.

11:51AM 4 A. On December 10, 2018, I have received an incoming phone  
11:51AM 5 call from Peter Gerace and ignored the call. Immediately  
11:51AM 6 following the call from Gerace, I received another incoming  
11:51AM 7 call from the number 716-525-6511 and I ignored the call  
11:51AM 8 because I did not recognized the number.

11:51AM 9 Immediately after my failure to answer the aforementioned  
11:51AM 10 calls, I received a series of text messages from Gerace out  
11:51AM 11 of the ordinary and over a span of a couple minutes.

11:51AM 12 In the text messages, Gerace seemed very concerned, and  
11:51AM 13 in his text, Gerace asked me to text him back on the number  
11:51AM 14 they just called you on.

11:51AM 15 Gerace immediately followed the call with another text  
11:52AM 16 which read ASAP, A-S-A-P.

11:52AM 17 **MR. TRIPI:** We can zoom out of that, Ms. Champoux.  
11:52AM 18 And can we zoom in on the second full paragraph there.

11:52AM 19 **BY MR. TRIPI:**

11:52AM 20 Q. And can you read that paragraph?

11:52AM 21 A. In effort to maintain a sense of normal activity and with  
11:52AM 22 hopes of not alerting Gerace that something may be wrong, I  
11:52AM 23 responded and called the number 716-525-6511.

11:52AM 24 Q. Let me stop you there. This is the second time he's used  
11:52AM 25 that phrase "in an effort to maintain a sense of normal

1 activity;" is that right?

2 A. Yes.

3 Q. He used it in first memo as well?

4 A. Yes.

5 Q. What does that indicate to you as to normal activity  
6 between the two of them?

7 A. That normal activity is for them to be in contact.

8 Q. Please continue reading the paragraph.

9 A. Gerace answered the phone and I was agitated and asked  
10 Gerace why he was calling me over and over. I then asked  
11 Gerace why he was calling me on a different number.

12 Gerace stated that the number 716-525-6511 belonged to  
13 his girlfriend. I stated that I did not respond to his calls  
14 and text because I was in court.

15 At that time, Gerace stated that he needed to tell me  
16 something important but he didn't want to talk on the phone.

17 I told Gerace that it was fine to talk on the phone and  
18 asked Gerace what was the problem.

19 Gerace stated that he, Gerace, parenthetically, was told  
20 that I was being watched.

21 I asked Gerace who was watching me.

22 Gerace responded that he heard I was being watched by  
23 internal affairs.

24 I responded, is that so? I asked Gerace who was giving  
25 him this information?

1 At that time, Gerace seemed to stumble and said that this  
2 information was told to him by somebody he encountered while  
3 he was dining or drinking at Salvatore's restaurant and  
4 hotel.

5 Gerace stated that he did not recall the person's name.

6 Again, I asked Gerace who said I was being watched by  
7 internal affairs?

8 Again, Gerace failed to identify his source.

9 At that time, I told Gerace that his information was  
10 bullshit. I also told Gerace that DEA does not even have a  
11 Bureau of Internal Affairs.

12 Q. DEA does have an Office of Profession Responsibility; is  
13 that right?

14 A. Yes.

15 Q. Do they interact with the Department of Justice, Office  
16 of Inspector General, when DOJ OIG is investigating federal  
17 agents like DEA agents?

18 A. Yes.

19 Q. So in other words, Mr. Bongiovanni by that point was  
20 under investigation; is that right?

21 A. Yes.

22 Q. And he had been made aware of his contacts with Gerace  
23 and the statements that he made that were race-related were  
24 under review; is that right?

25 A. Yes.



1 Q. Were efforts made, though, to conceal any -- any notice  
2 to Mr. Bongiovanni that his behavior with respect to the Ron  
3 Serio file was also under investigation by you?

4 A. Yes.

5 Q. Was that closely held?

6 A. Yes.

7 Q. Do you believe he was unaware of that?

8 **MR. MacKAY:** Objection to -- objection, speculation.

9 **THE COURT:** Yeah, sustained.

10 **MR. TRIPI:** Okay.

11 Let's move on to the next paragraph.

12 **BY MR. TRIPI:**

13 Q. Read that next paragraph.

14 A. Gerace stated that the person believes that internal  
15 affairs is watching me because Gerace and I have been friends  
16 since we were kids and now he owns Pharaoh's Gentlemen's  
17 Club.

18 I responded that, yes, we have been friends for years,  
19 but I never come into your club. Gerace says he agrees.

20 Gerace reiterated that we were friends and the reason for  
21 the call was that Gerace was looking out for me. I respond  
22 that there was nothing going on and his information was  
23 false.

24 **MR. TRIPI:** Let's move on to the next paragraph.

25 **THE WITNESS:** Gerace sent me a text shortly after the

1 conclusion of the telephone call and in sum and substance

2 stated that we haven't talked in a while but he considered me

3 one of his best friends and that he always had my back.

4 As a continued effort to maintain a sense of normal

5 activity, I texted Gerace back. We have been friends for 25

6 years bud, all good.

7 On December 8th, 2018, I received a reply text from

8 Gerace, you mean 36 years.

9 **MR. TRIPI:** And let's move on to the next page of

10 this exhibit.

11 **BY MR. TRIPI:**

12 Q. Did Mr. Bongiovanni provide as an attachment to his memo

13 that he wrote text messages?

14 A. Yes.

15 Q. Are they attached here on this -- and visible here on the

16 screen?

17 A. Yes.

18 Q. Can you read the text messages and who they're from?

19 A. Call me on the phone, they just called your number, ASAP.

20 Q. And what did Mr. Bongiovanni write as to who was sending

21 the message?

22 A. Actually, the next one is from Peter Gerace again. These

23 are all from Peter Gerace.

24 Q. And what date Mr. Bongiovanni write they were from?

25 A. Oh, from December 7th, 2018, all three messages.

1 Q. And what's the last one. I don't think you read that  
2 bottom one yet?

3 A. Hey, brother, I know we haven't talked in a while, but  
4 you'll always be one of my best friends and you know I always  
5 have your back.

6 **MR. TRIPI:** And let's go to the next page, page 4, of  
7 this exhibit.

8 **BY MR. TRIPI:**

9 Q. What did Mr. Bongiovanni indicate he responded?

10 A. We have been friends for 25 years, bud. All good.

11 Q. And what's the response from Mr. Gerace as indicated in  
12 the handwritten portion on December 8th, 2018?

13 A. You mean 36 years?

14 Q. Is that where the thread ends?

15 A. I think so, yes.

16 **MR. TRIPI:** Let's go back to the -- let's go back to  
17 the paragraph, the last paragraph. Could you zoom in on that?  
18 "I have and will report all contact."

19 **BY MR. TRIPI:**

20 Q. Other than the text messages that Mr. Gerace attached --  
21 withdrawn -- Mr. Bongiovanni attached to these memos between  
22 he and Mr. Gerace, are you aware of far more contacts  
23 between -- as you sit here now, are you aware of far more  
24 contacts than Mr. Bongiovanni reported in these memos?

25 A. Yes.

1 Q. Did those include texts?

2 A. Yes.

3 Q. Do those include calls?

4 A. Yes.

5 Q. Do those include travel?

6 A. Yes.

7 **MR. TRIPI:** Let's move on to Exhibit 99.

8 **By MR. TRIPI:**

9 Q. Did Mr. Bongiovanni submit another memo the same day that  
10 HSI was executing search warrants as to Anthony Gerace and  
11 Michael Sinatra's residences?

12 A. Yes.

13 Q. What date is that?

14 A. January 28th, 2019.

15 Q. And this one has a subject. Can you read that subject?

16 A. Communication with Peter Gerace by Special Agent Anthony  
17 Casullo and Phil Domiano.

18 Q. And was this to Mr. Orgon, the Resident Agent in Charge  
19 through Gregory Yensan by Mr. Bongiovanni?

20 A. Yes.

21 Q. So Mr. Bongiovanni wrote all these words and provided all  
22 the attachments; is that right?

23 A. Yes.

24 **MR. TRIPI:** All right. Let's zoom in on the first  
25 paragraph, Ms. Champoux.

2 | Q. Could you read that for the jury.

8 In the -- in that past, S.A. Bongiovanni has verbally  
9 informed you, my group supervisor Greg Yensan, and our ASAC,  
10 David T. Zon of information confirming the friendship of  
11 Domiano, Casullo, and Gerace.

16 Q. Now, regarding the information in this paragraph, did  
17 you -- did you -- did you learn that Special Agent Casullo  
18 had sought to investigate Peter Gerace in 2016?

20 | Q. So are they friends?

22 | **MR. TRIPI:** Let's go to the second paragraph.

24 Q. Can you read that -- that paragraph.

25 | A. S.A. Bongiovanni has personally witnessed S.A. Casullo

meeting and drinking socially with Peter Gerace alone at the Big Ditch Brewery and later at Tappo Italian Restaurant in Buffalo, New York, at approximately 9:45 p.m. on the evening of June 13th, 2015.

Q. So approximately six months before this memo, Special Agent Casullo had made reports about this defendant's conduct; is that right?

A. Yes.

Q. And six months later, right before he's retiring, the defendant is submitting this memo?

A. Yes.

**MR. TRIPI:** Let's go to paragraph 3.

**BY MR. TRIPI:**

Q. Could you read that?

A. Also, S.A. Casullo's actions approximately eight months ago by advising AUSA Joseph Tripi that S.A. Bongiovanni was a racist in the presence of G.S. James McHugh was completely unprofessional.

S.A. Casullo advised AUSA Tripi that S.A. Bongiovanni told S.A. Casullo approximately two years ago that he, Casullo, shouldn't investigate Italians, but should investigate -- two words that are redacted. S.A. Casullo did not advise --

Q. Were those words that were redacted, were they racial epithets for black people and Hispanic people?

12:02PM 1 A. Yes.

12:02PM 2 Q. Please continue.

12:02PM 3 A. S.A. Casullo did not advise his chain of command prior to  
12:02PM 4 making these allegations and has ruined S.A. Bongiovanni's  
12:02PM 5 character. This incident was not documented within DEA and  
12:03PM 6 no investigation has been conducted against S.A. Casullo.  
12:03PM 7 S.A. Bongiovanni completely denies making this statement.

12:03PM 8 **MR. TRIPI:** Let's go on top the next paragraph.

12:03PM 9 **BY MR. TRIPI:**

12:03PM 10 Q. Please read that.

12:03PM 11 A. S.A. Joseph Bongiovanni is forwarding this information  
12:03PM 12 through the DEA chain of command because he knows that this  
12:03PM 13 will be required to be disclosed to OPR and the AUSO office  
12:03PM 14 in the Western -- or, WDNY based on the ongoing investigation  
12:03PM 15 of Gerace. Should you need any additional information,  
12:03PM 16 please contact S.A. Joseph Bongiovanni.

12:03PM 17 Thank you for your attention in this matter.

12:03PM 18 Q. So all of Mr. Bongiovanni's memos in totality, all three,  
12:03PM 19 relate to his relationship with Gerace, and in this last one,  
12:03PM 20 the comments that Casullo had reported about black and  
12:03PM 21 Hispanic people; is that right?

12:03PM 22 A. Yes.

12:03PM 23 Q. There's some attachments that Mr. Bongiovanni provided  
12:04PM 24 from apparently Facebook?

12:04PM 25 A. Yes.

12:04PM 1 **MR. TRIPI:** And we can scroll through those for now,  
12:04PM 2 Ms. Champoux. Let me stop you there.

12:04PM 3 **BY MR. TRIPI:**

12:04PM 4 Q. Is the reference to Katrina Lee, is that a name that  
12:04PM 5 Katrina Nigro uses?

12:04PM 6 A. Yes.

12:04PM 7 **MR. TRIPI:** You can please continue.

12:05PM 8 **BY MR. TRIPI:**

12:05PM 9 Q. As you understand it, did Special Agent Casullo and  
12:05PM 10 Mr. Gerace actually go to high school together?

12:05PM 11 A. Yes.

12:05PM 12 Q. Were they in the same graduating class at Saint Joe's  
12:05PM 13 Collegiate Institute?

12:05PM 14 A. Yes.

12:05PM 15 Q. Is that a photo of a high school reunion as you  
12:05PM 16 understand it that occurred on July 14, 2015?

12:05PM 17 A. Yes.

12:05PM 18 **MR. TRIPI:** Please continue to scroll a little bit.  
12:06PM 19 Okay. You can take that one down.

12:06PM 20 **BY MR. TRIPI:**

12:06PM 21 Q. Within several days of that memo, Mr. Bongiovanni  
12:06PM 22 retires; is that right?

12:06PM 23 A. Yes.

12:06PM 24 Q. I'd like to -- so you -- you reviewed those memos as well  
12:06PM 25 as Special Agent Carpenter from DOJ OIG; is that right?



12:06PM

1 A. Yes.

12:06PM

2 Q. On March 29th, 2019, was Special Agent Carpenter of DOJ

12:06PM

3 OIG planning to attempt to interview Mr. Bongiovanni who

12:06PM

4 had -- had retired the prior month?

12:06PM

5 A. Yes.

12:06PM

6 Q. Were there any discussions you had with Special Agent

12:06PM

7 Carpenter regarding the parameters of Carpenter's interview

12:06PM

8 in areas to make sure that Special Agent Carpenter did not

12:06PM

9 talk about or disclose to the defendant?

12:07PM

10 A. Yes.

12:07PM

11 Q. Describe -- describe that plan.

12:07PM

12 A. The -- the plan was for Special Agent Carpenter to focus

12:07PM

13 on the race-related comments and anything that was generally

12:07PM

14 known, but to specifically avoid any questions or discussions

12:07PM

15 of Mr. Serio's allegations.

12:07PM

16 Q. Was that to keep the Serio prong of the investigation

12:07PM

17 concealed from the defendant?

12:07PM

18 A. Yes.

12:07PM

19 Q. In your experience, can questions that investigators ask

12:07PM

20 people during interviews, can that reveal the direction and

12:07PM

21 potential scope of an investigation?

12:07PM

22 A. Yes.

12:07PM

23 Q. Did you want to avoid that?

12:07PM

24 A. Yes.

12:07PM

25 Q. Did you and Special Agent Carpenter agree to keep that

12:07PM 1 information concealed and contained from the defendant?

12:07PM 2 A. Yes.

12:08PM 3 Q. Now, earlier you had mentioned that Homeland Security has  
12:08PM 4 some specialty in investigating activities that relate to the  
12:08PM 5 United States Border; is that right?

12:08PM 6 A. Yes.

12:08PM 7 Q. You have ability to check on information in terms of  
12:08PM 8 international travel?

12:08PM 9 A. Yes.

12:08PM 10 Q. And those are through -- that's through information  
12:08PM 11 available to you through Homeland Security; is that right?

12:08PM 12 A. That's correct.

12:08PM 13 Q. On April 27th, 2019, were you aware that Peter Gerace,  
12:08PM 14 Jr., the owner of Pharaoh's, had international travel and was  
12:08PM 15 scheduled to return into the United States from a foreign  
12:08PM 16 country?

12:08PM 17 A. Yes.

12:08PM 18 Q. Generally, were you aware of that because you had entered  
12:08PM 19 information in the database that would then alert you if  
12:08PM 20 Mr. Gerace was crossing an international border?

12:09PM 21 A. Yes, that's correct.

12:09PM 22 Q. When you learned that Mr. Gerace was going to be  
12:09PM 23 traveling internationally and then reentering the United  
12:09PM 24 States, what arrangements did you make?

12:09PM 25 A. Contacted HSI agents at Newark airport where he was going

12:09PM 1 to enter the United States and arranged for what we call a  
12:09PM 2 secondary examination. And if he had a phone with him, for  
12:09PM 3 the phone to be detained for a border search.

12:09PM 4 Q. And is that type of authority within HSI's scope of  
12:09PM 5 ordinary investigative duties?

12:09PM 6 A. Yes.

12:09PM 7 Q. Did you communicate specifically with HSI Newark and then  
12:09PM 8 get into contact with an agent named Robert Van Etten?

12:09PM 9 A. Yes.

12:09PM 10 Q. On that date, did you learn that Van Etten had detained  
12:10PM 11 Mr. Gerace's phone and was going to be FedExing Mr. Gerace's  
12:10PM 12 phone to you for further examination?

12:10PM 13 A. Yes.

12:10PM 14 Q. Did you coordinate with Mr. Van Etten, Special Agent  
12:10PM 15 Van Etten out of HSI Newark to receive Peter Gerace's cell  
12:10PM 16 phone?

12:10PM 17 A. Yes.

12:10PM 18 Q. How did you receive it?

12:10PM 19 A. By FedEx.

12:10PM 20 Q. When you received it, was it intact?

12:10PM 21 A. Yes.

12:10PM 22 Q. When a phone like that is detained, are records generated  
12:10PM 23 in the ordinary course of business?

12:10PM 24 A. Yes.

12:10PM 25 Q. Is it called a detention notice and custody receipt for

12:10PM 1 detained property?

12:10PM 2 A. Yes.

12:10PM 3 Q. I'm going to hand you up Government Exhibit 310A. Just

12:10PM 4 take a moment to review that.

12:11PM 5 Do you recognize that?

12:11PM 6 A. I do.

12:11PM 7 Q. What do you recognize it to be?

12:11PM 8 A. It's the detention notice and custody receipt for

12:11PM 9 detained property for Peter Gerace's iPhone X.

12:11PM 10 Q. Is that -- was that document made in the ordinary course

12:11PM 11 of HSI business?

12:11PM 12 A. Yes.

12:11PM 13 Q. Is it the ordinary course of Homeland Security

12:11PM 14 Investigation business to make and keep that record?

12:11PM 15 A. Yes.

12:11PM 16 Q. Are the entries made at or near the time the events are

12:11PM 17 recorded in the document?

12:11PM 18 A. Yes.

12:11PM 19 Q. Are the entries made under the obligation to do so

12:11PM 20 accurately, in this instance, Special Agent Van Etten?

12:12PM 21 A. Yes.

12:12PM 22 **MR. TRIPI:** The government offers Exhibit 310A,

12:12PM 23 Your Honor.

12:12PM 24 **MR. MacKAY:** No objection.

12:12PM 25 **THE COURT:** Received without objection.

(GOV Exhibit 310A was received in evidence.)

MR. TRIPI: Can we publish -- thank you.

Can we publish Exhibit 310A, please. All right.

BY MR. TRIPI:

Q. All right. When these forms are being filled out, is it basically like the old school carbon paper where you've got several sheets and so each one you're getting a copy?

A. Yes.

Q. Can you just orient the jury to the information, just kind of go through the different boxes and information that's documented in the form?

A. Yes. So --

Q. Start with maybe box 6?

A. That's the port code. So 4601 is either the Port of Newark or specific to Newark International Airport.

The detention date, April 27th, 2019.

Q. So that means when HSI obtained Mr. Gerace's phone?

A. Yes.

Q. Please continue.

A. And then the time is -- looks like 1809, so 6:09 p.m.

And then where it says seal or other ID, and then it has, PEB, a dash, and then A-2862367. That's the unique number on the bag that Special Agent Van Etten sealed the phone in.

And then name: Peter George Gerace. His address, 5145 Luxor Lane in Clarence, New York. And the remarks that it's

12:13PM 1 an iPhone X, and then the code is in parenthesis with the  
12:13PM 2 numbers to unlock the phone, 123456.

12:14PM 3 Q. Is that phone number 716-725-1931?

12:14PM 4 A. Yes.

12:14PM 5 Q. And then below that, you are the point of contact?

12:14PM 6 A. Yes.

12:14PM 7 Q. Below that the reason for the detention of the phone,  
12:14PM 8 border search?

12:14PM 9 A. Yes.

12:14PM 10 Q. Under that, forensics. Was that an indication that HSI  
12:14PM 11 would be looking at the extracted data information from the  
12:14PM 12 cell phone?

12:14PM 13 A. Yes.

12:14PM 14 Q. In the proper -- box 19, the property, is that  
12:14PM 15 referencing the same iPhone X?

12:14PM 16 A. Yes.

12:14PM 17 Q. And box 20, is that the name and signature of Special  
12:14PM 18 Agent Van Etten who you were coordinating with?

12:14PM 19 A. Yes.

12:14PM 20 Q. And then below that, the acceptance chain of custody,  
12:14PM 21 does that indicate, you know, who it went from once it got to  
12:14PM 22 Buffalo?

12:14PM 23 A. Yes.

12:14PM 24 Q. And that's basically you, and then Special Agent  
12:14PM 25 Donoghue?

12:14PM 1 A. Yes.

12:14PM 2 Q. Who is Special Agent Donoghue?

12:14PM 3 A. He's a special agent in the HSI office with training in

12:14PM 4 computer forensics.

12:15PM 5 Q. After you obtained and secured Mr. Gerace's iPhone X, did

12:15PM 6 you give that phone to Mr. -- Special Agent Donoghue to

12:15PM 7 extract the data that was contained in Mr. Gerace's phone?

12:15PM 8 A. Yes.

12:15PM 9 Q. Did that include contacts, text messages, that type of

12:15PM 10 thing?

12:15PM 11 A. Yes.

12:15PM 12 Q. Photographs, voicemails?

12:15PM 13 A. Yes.

12:15PM 14 Q. And did Special Agent Donoghue extract the phone?

12:15PM 15 A. He did.

12:15PM 16 Q. When he was done extracting the information on

12:15PM 17 Mr. Gerace's iPhone X, did he give the phone back to you?

12:15PM 18 A. He did.

12:15PM 19 Q. Once you got the phone back from Special Agent Donoghue,

12:15PM 20 what did you do with it?

12:15PM 21 A. Well, Special Agent Donoghue had the phone, I received

12:15PM 22 it, telephone call from Attorney Tom Eoannou.

12:15PM 23 Q. Now, is that the attorney that had been representing

12:15PM 24 Anthony Gerace in federal court?

12:15PM 25 A. Yes.

12:15PM 1 Q. And Anthony's Peter's brother?

12:16PM 2 A. That's correct.

12:16PM 3 Q. And did he request when HSI was done with the phone to

12:16PM 4 have you return Mr. Peter Gerace's phone to Mr. Eoannou's

12:16PM 5 office?

12:16PM 6 A. He did.

12:16PM 7 Q. Is that what you did?

12:16PM 8 A. Yes, on May 10th.

12:16PM 9 Q. May 10th, 2019?

12:16PM 10 A. Yes.

12:16PM 11 Q. And so basically, the extraction is a copy of the

12:16PM 12 information that was able to be extracted from the phone; is

12:16PM 13 that right?

12:16PM 14 A. Yes.

12:16PM 15 Q. Fair to say, sometimes the equipment doesn't extract

12:16PM 16 everything? Sometimes there's stuff that might be deleted

12:16PM 17 off of the phone that the equipment may not capture?

12:16PM 18 A. Yes, that's correct.

12:16PM 19 Q. Okay. I'm going to hand you up a flash drive marked

12:17PM 20 Government Exhibit 310.

12:17PM 21 Do you recognize Exhibit 310?

12:17PM 22 A. Yes.

12:17PM 23 Q. What do you recognize it to be?

12:17PM 24 A. It's a copy of the phone extraction from Peter Gerace's

12:17PM 25 iPhone X with telephone number 716-725-1931.



12:17PM 1 Q. How do you recognize it?

12:17PM 2 A. By the label and then by my initials, which I placed on  
12:17PM 3 the label.

12:17PM 4 Q. So basically what happens is Special Agent Donoghue  
12:17PM 5 creates that extraction, makes it available to you, puts it  
12:17PM 6 on a flash drive, and then here it is in federal court; is  
12:17PM 7 that right?

12:17PM 8 A. Yes.

12:17PM 9 Q. Were there text messages and content regarding Peter  
12:17PM 10 Gerace inside that extraction?

12:17PM 11 A. Yes.

12:17PM 12 Q. Were there contacts in the phone?

12:17PM 13 A. Yes.

12:17PM 14 Q. Was the phone number associated with the device a number  
12:18PM 15 that you had previously identified for Mr. Gerace, this  
12:18PM 16 725-1931?

12:18PM 17 A. Yes.

12:18PM 18 Q. Did you also know by that point in the investigation that  
12:18PM 19 the phone number that had been associated with Defendant  
12:18PM 20 Bongiovanni when he was at DEA was 716-818-0966?

12:18PM 21 A. Yes.

12:18PM 22 Q. When you looked at contents of -- of that phone, did --  
12:18PM 23 did you -- did it indicate further that based on the contents  
12:18PM 24 that it was in fact Peter Gerace's iPhone X?

12:18PM 25 A. Yes.

12:18PM 1 Q. Did that include the content of the text messages and the  
12:18PM 2 phone number itself?

12:18PM 3 A. Yes.

12:18PM 4 Q. When you reviewed that extraction, did you focus in on  
12:18PM 5 text communications between Mr. Bongiovanni and Mr. Gerace  
12:18PM 6 that were contained in Mr. Gerace's iPhone X?

12:19PM 7 A. Yes.

12:19PM 8 Q. I'm going to hand you up now what's been submarked from  
12:19PM 9 the extraction as Government Exhibit 310D, D as in dog.

12:20PM 10 Do you recognize Exhibit 310D?

12:20PM 11 A. Yes.

12:20PM 12 Q. What do you recognize that to be?

12:20PM 13 A. It's a report of the text messages between Peter Gerace  
12:20PM 14 and Joseph Bongiovanni generated from the extraction of  
12:20PM 15 Mr. Gerace's phone.

12:20PM 16 Q. So those are the texts between those two that were  
12:20PM 17 extracted from the phone?

12:20PM 18 A. Yes.

12:20PM 19 Q. Is it accurate for the text messages between the two that  
12:20PM 20 were extracted from Exhibit 310?

12:20PM 21 A. Yes.

12:20PM 22 **MR. TRIPI:** The government offers Exhibit 310D,  
12:20PM 23 Your Honor.

12:20PM 24 **MR. MacKAY:** No objection to 310D.

12:20PM 25 **THE COURT:** Received without objection.

2 BY MR. TRIPI:

3 Q. And we'll get to this a little bit later, but was there  
4 also in the text messages in the data extracted from the  
5 phone, if there's like a voicemail message, things like that,  
6 does that get extracted as well?

7	A. Yes.
---	---------

8 Q. Was there a particular text message in that thread that  
9 was in 310D that was also downloaded as part of the  
10 extraction?

11	A. Yes.
----	---------

12 Q. I'm going to hand you up Government Exhibit 311. Do you  
13 recognize that?

14	A. I do.
----	----------

15 | Q. What do you recognize it to be?

16 A. It's the voice recording that was contained in the text  
17 messages.

18 | Q. And was that a particular voice message May 4th, 2017?

19 | A. Yes.

20 | Q. Is that accurate?

21	A. It is.
----	-----------

22	Q. A copy?
----	------------

23 | A. Yes, it is.

24                   **MR. TRIPI:**   The government offers Exhibit 311,  
25   Your Honor.

[illegible]

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**MR. MacKAY:** No objection.

**THE COURT:** Received without objection.

(GOV Exhibit 311 was received in evidence.)

MR. TRIPI: All right. Ms. Champoux, if we could, please publish Exhibit 310D.

BY MR. TRIPI:

Q. Okay. Let's orient the jury to the exhibit, okay?

A. Okay.

Q. What does IOS Message, SMS, MMS mean?

A. So, iOS is iPhone Messenger, that's iOS iMessage. SMS and MMS are two other formats for text messages.

Q. And it says number of participants, two?

A. Yes.

Q. Does that mean this is a text thread between just two people?

A. Yes.

Q. And where it says display name, 1-716-818-0966, is that telling you the other phone number for the other person who Mr. Gerace is texting with?

A. Yes.

Q. Does this tell you the number of messages between those two numbers?

A. 391, between January 6th, 2015 and February 22nd, 2019.

Q. Just looking at those text messages from January 6th, 2015 to February 22nd, 2019, 391 text messages, does that

1 seem like primarily random telephonic communication to you?

2 A. No.

3 Q. But that's what Mr. Bongiovanni wrote in one of his

4 memos, Exhibit 97?

5 A. Yes.

6 Q. Okay. Now, I'd like to go through these text messages.

7 **MR. TRIPI:** Ms. Champoux, is there any way we can  
8 make them a little bit bigger?

9 Your Honor, in terms of a sense of time, when do you  
10 want to break?

11 **THE COURT:** Are you going to through 391?

12 **MR. TRIPI:** We're going to go through -- it's going  
13 to be relatively quick though, Judge. We ended up doing  
14 that -- yeah, we're going to go through them so we're not  
15 going back and forth.

16 **THE COURT:** I'm sorry.

17 **MR. TRIPI:** Yes, so we're not going to go through  
18 Ping-Ponging too much, we're going to go through 391.

19 **THE COURT:** Okay.

20 **BY MR. TRIPI:**

21 Q. So the first message is January 6, 2015; is that right?

22 A. Yes.

23 Q. Now I want you to orient the jury though, when you see  
24 the blue bubbles, who's writing that message?

25 A. Peter Gerace.

1 Q. And when we see the gray with the 818 phone number, or  
2 0966, who's writing that?

3 A. Joseph Bongiovanni.

4 Q. And in terms of the date and time, is this in UTC?

5 A. Yes.

6 Q. So when you see a time, for example, the first message it  
7 says 2:02 a.m., and 46 seconds, in terms of UTC time, if in  
8 it's in the wintertime, do you subtract five hours?

9 A. Yes.

10 Q. If it's in the summertime do you generally subtract four  
11 hours?

12 A. Yes, during daylight savings, the difference is four  
13 hours.

14 Q. I want to scroll through some of these so the jury can  
15 get a feel for the relationship between the two.

16 **MR. TRIPI:** Ms. Champoux --

17 **BY MR. TRIPI:**

18 Q. I'm going to have her scroll down, and can you read and  
19 assign who's writing each thing, and I'll stop and ask some  
20 questions along the way.

21 A. Yes. The first one is from Mr. Gerace. It says we need  
22 to get together soon.

23 Special Mr. Bongiovanni responds, I know, Bro. Maybe  
24 lunch soon, miss you Bro.

25 And then Mr. Gerace: Yeah, how is Friday or Saturday.

12:25PM 1 MR. TRIPI: Okay. Please keep scrolling.

12:25PM 2 BY MR. TRIPI:

12:25PM 3 Q. And those are all January 6th, 2015?

12:25PM 4 A. Yes.

12:25PM 5 Q. Please continue?

12:25PM 6 A. Continuing on January 6th. Mr. Bongiovanni says Saturday

12:25PM 7 best. My Uncle John Mambrino passed away. He was Babe

12:25PM 8 Mambrino's brother, so I have the funeral later this week.

12:25PM 9 Mr. Gerace same day says: Sorry to hear. And then,

12:25PM 10 okay.

12:25PM 11 And then Mr. Bongiovanni says: Get with you later this

12:25PM 12 week.

12:25PM 13 And then the last text on that day is Mr. Gerace saying

12:25PM 14 okay.

12:25PM 15 Q. And then the next text is on what date?

12:25PM 16 A. January 18, 2015.

12:26PM 17 Q. Who writes it?

12:26PM 18 A. Mr. Gerace.

12:26PM 19 MR. TRIPI: Can we zoom in on it so we can see it

12:26PM 20 better, Ms. Champoux?

12:26PM 21 BY MR. TRIPI:

12:26PM 22 Q. Again we're looking at January 18th, 2015 and this is

12:26PM 23 really 11:49 p.m., right?

12:26PM 24 A. Yes, sir.

12:26PM 25 Q. This is 11:49 p.m. on the 17th?

12:26PM 1 A. Yes.

12:26PM 2 Q. Okay. And that one says need have lunch this week?

12:26PM 3 A. Yes, it does.

12:26PM 4 **MR. TRIPI:** We can zoom out of that.

12:26PM 5 **BY MR. TRIPI:**

12:26PM 6 Q. And does Mr. Bongiovanni respond?

12:26PM 7 A. Tuesday, Wednesday, or Thursday good for me.

12:26PM 8 Q. And please just continue reading the content and the date  
12:26PM 9 and time, please.

12:26PM 10 A. Mr. Gerace says okay, Wednesday.

12:26PM 11 Still on January 18th, I guess it's late on the -- no,  
12:26PM 12 this is January 18th, Mr. Bongiovanni says, cool.

12:26PM 13 And then it skips to January 21st at about 11:06 a.m.  
12:26PM 14 Mr. Gerace says: What time is good today.

12:26PM 15 Mr. Bongiovanni says: Not good at all, bro. I'm stuck.  
12:27PM 16 Maybe tomorrow. Fuck job. Fucking job never fails.

12:27PM 17 And then Mr. Gerace says: All good, bud.

12:27PM 18 Q. Please, continue.

12:27PM 19 A. Now it's March 1st in the afternoon. Sorry, Bro, I saw  
12:27PM 20 you called.

12:27PM 21 Q. You've got to say who's writing the messages.

12:27PM 22 A. Mr. Bongiovanni says: Sorry, Bro, I saw you called.  
12:27PM 23 I've been exhausted. Just hanging with my bride.

12:27PM 24 And then Mr. Gerace responds: All good. Pictures look  
12:27PM 25 beautiful.



12:27PM 1 Mr. Bongiovanni says: Thank you, bro. Hope all is well  
12:27PM 2 with you and Katrina.

12:27PM 3 Q. At that point Mr. Gerace is married to Katrina Nigro?  
12:27PM 4 A. Yes.

12:27PM 5 Q. And at that point Mr. Bongiovanni had recently married  
12:27PM 6 his wife, Lindsay?  
12:27PM 7 A. Yes.

12:27PM 8 Q. Okay. Please, continue.  
12:27PM 9 A. Still on March 1st, Mr. Gerace says: Let me know when we  
12:27PM 10 can grab lunch.

12:27PM 11 Same day, Mr. Bongiovanni responds: Okay, this week I  
12:28PM 12 should be good. Maybe Wednesday. We can go anywhere.

12:28PM 13 And Mr. Gerace says: Okay, bud.

12:28PM 14 Q. Please continue. We're now on page 5 of the exhibit.  
12:28PM 15 A. So, March 10th, about 4:00 in the afternoon,  
12:28PM 16 Mr. Bongiovanni says: Peter, you and Katrina are invited  
12:28PM 17 Sunday, March 15th at 11 a.m., Saint Patrick's Day party at  
12:28PM 18 my house. About 40 people will be there. I hope you guys  
12:28PM 19 can make it.

12:28PM 20 Mr. Gerace responds: Cool, thanks.

12:28PM 21 Q. Now, let me ask you this. When -- so that's a message on  
12:28PM 22 March 10th. The Saint Patrick's Day party was planned for  
12:28PM 23 March 15th according to that message; is that right?  
12:28PM 24 A. That's what it says, yes.

12:28PM 25 Q. Had -- have you ever invited a confidential source to a

1 party at your house?

2 A. No.

3 **MR. MacKAY:** Objection, improper opinion.

4 **MR. TRIPI:** I didn't ask his opinion, I asked if he's  
5 ever done it.

6 **THE COURT:** I'm sorry?

7 **MR. TRIPI:** I didn't ask his opinion, I asked if he's  
8 ever done it.

9 **MR. MacKAY:** It's improper lay witness testimony.  
10 Objection, Judge.

11 **THE COURT:** No, overruled.

12 **BY MR. TRIPI:**

13 Q. Have you ever as an investigator with Homeland Security  
14 or any other agency invited a confidential source over to  
15 your house for a party?

16 A. No. Never.

17 Q. Have you ever invited a source of information over to  
18 your house for a party?

19 A. Never.

20 Q. Please continue.

21 A. So March 10th, 2015. Mr. Bongiovanni says: Hope you  
22 could make it, bro.

23 Same day Mr. Gerace says: I'll let you know.

24 Then it jumps to March 14th. Mr. Gerace says: Bud,  
25 tomorrow not looking good. Nick missed four days of school.

12:29PM 1 He still has fever, now I got it. This sucks. I will see  
12:29PM 2 you soon. She got that cut off her ankle this a.m.

12:30PM 3 Q. And what did Mr. Bongiovanni respond the 14th?

12:30PM 4 A. No problem, bud. I understand. Chelsea's sick too.

12:30PM 5 Q. Does Mr. Gerace have a son named Nick, and did

12:30PM 6 Mr. Bongiovanni -- does Mr. Bongiovanni have a daughter named  
12:30PM 7 Chelsea?

12:30PM 8 A. Yes.

12:30PM 9 Q. Okay. Please continue.

12:30PM 10 A. Still March 14th, Mr. Gerace says: Sucks.

12:30PM 11 Then it jumps to May 1st.

12:30PM 12 Q. And who's writing a message May 1st?

12:30PM 13 A. Mr. Bongiovanni says: Peter, I didn't know you were  
12:30PM 14 sick. Glad you are feeling better.

12:30PM 15 Same day Mr. Gerace says: Thanks. I still have a gift  
12:30PM 16 for you.

12:30PM 17 And same day Mr. Bongiovanni says: Just get better, bro.  
12:30PM 18 I will pick you up in the old Buick and we will hang out.

12:30PM 19 **MR. TRIPI:** Ms. Champoux, can you pull up Government  
12:30PM 20 Exhibit 109AB in evidence.

12:30PM 21 **BY MR. TRIPI:**

12:30PM 22 Q. Can you tell the jury what they're looking at there  
12:30PM 23 Special Agent Ryan?

12:31PM 24 A. Mr. Bongiovanni in his classic Buick.

12:31PM 25 Q. Would that be consistent with an old Buick?

12:31PM 1 A. Yes.

12:31PM 2 **MR. TRIPI:** We can go back to the text thread

12:31PM 3 Ms. Champoux.

12:31PM 4 **BY MR. TRIPI:**

12:31PM 5 Q. We're on 310D where we left off.

12:31PM 6 A. So on May 1st, Mr. Gerace responds: Love to, thanks.

12:31PM 7 Then it jumps to May 13th.

12:31PM 8 Q. Is there some type of multimedia sent that day from

12:31PM 9 Mr. Gerace?

12:31PM 10 A. Yes.

12:31PM 11 Q. We can continue scrolling. What's the next message?

12:31PM 12 A. May 13th from Mr. Bongiovanni says: Ain't that the

12:31PM 13 truth.

12:31PM 14 May 13th Mr. Gerace sends a thumbs up emoji.

12:31PM 15 And then May 28th: Pharaoh's 6th annual golf outing,

12:31PM 16 Wednesday, July 29th, included limo, food, booze, girls, and

12:32PM 17 pig roast. Limited spots. First to pay are in. Money due

12:32PM 18 before July 10th. \$600 foursome.

12:32PM 19 Then it jumps to June 14th. Mr. Gerace says: Where are

12:32PM 20 you?

12:32PM 21 Then on July 6th, Mr. Gerace says: Do you have your

12:32PM 22 foursome.

12:32PM 23 Again on July 6th, Mr. Gerace says: Pharaoh's 6th annual

12:32PM 24 golf outing, Wednesday, July 29th. Included limo, food,

12:32PM 25 booze, girls, and pig roast. Limited spots. First to pay

1 are in. Money due before July 10th.

2 Q. So among the things that are being offered for the -- in  
3 that text message for the 6th annual golf outing are food,  
4 booze, and girls.

5 A. Yes.

6 Q. Please, continue.

7 A. Mr. Gerace on July 9th: Did you and MS.

8 And then next text on July 9th from Mr. Gerace: Napoli  
9 get foursome.

10 Q. Do you believe it to be a reference to Tom Napoli?

11 A. Yes.

12 Q. Please, continue.

13 A. From Mr. Gerace on July 9th: Arcangelo says he does, and  
14 Flo is in.

15 Q. Okay. Let me stop you there for a second.

16 **MR. TRIPI:** Can we pull up Government Exhibit 126 in  
17 evidence, please.

18 **BY MR. TRIPI:**

19 Q. I'm going to tap the screen and make marks, and ask you  
20 if you know who the person is in this photo, okay?

21 A. Yes.

22 Q. Exhibit 126 in evidence. Do you see who I tapped above  
23 there?

24 A. Oh, the blue dot? Yes. Joseph Bongiovanni.

25 Q. Okay. So that's the defendant, right?

12:33PM	1	A. Yes.
12:33PM	2	Q. See the person next to him?
12:33PM	3	A. Tom Napoli.
12:33PM	4	Q. Is that the person that was just referenced in the text
12:33PM	5	thread between Mr. Gerace and Mr. Bongiovanni?
12:33PM	6	A. Yes. Arcangelo Cappazollo.
12:33PM	7	Q. Was there an Arcangelo just referenced in the text thread
12:34PM	8	between Mr. Gerace and Mr. Bongiovanni?
12:34PM	9	A. Yes.
12:34PM	10	Q. Okay. And just to finish it off, who's that?
12:34PM	11	A. Kevin Myszka.
12:34PM	12	Q. Is he someone who ultimately began to proffer and
12:34PM	13	cooperate in the investigation?
12:34PM	14	A. Yes.
12:34PM	15	Q. Who's that?
12:34PM	16	A. Michael Sinatra.
12:34PM	17	Q. Is he the Michael Sinatra you talked about earlier,
12:34PM	18	Homeland Security searched his residence?
12:34PM	19	A. Yes.
12:34PM	20	Q. Do you remember who that is?
12:34PM	21	A. Where the pencil is now?
12:34PM	22	Q. Yeah.
12:34PM	23	A. Eric Bogart.
12:34PM	24	Q. Do you know who that is?
12:34PM	25	A. Gassan Rizek.

1 Q. And do you know who that is?

2 A. Not sure.

3 Q. Okay.

4 **MR. TRIPI:** We can take that one down, Ms. Champoux.

5 And go back to where we left off, please.

6 **BY MR. TRIPI:**

7 Q. Next page. So, who writes Arcangelo says he does and Flo  
8 is in?

9 A. Peter Gerace.

10 Q. And who writes the next message? Please continue.

11 A. Peter Gerace on July 13th: Are you and Tommy in for  
12 golf? Need to know by tomorrow a.m.

13 Q. And what does Mr. Bongiovanni respond?

14 A. Same day. I ask him, bud, call tomorrow.

15 Q. Okay.

16 **MR. TRIPI:** Let's go to the next message, please.

17 Go up a little further, Ms. Champoux. There you go.

18 **BY MR. TRIPI:**

19 Q. Thank you.

20 A. It's from Mr. Gerace on July 13th. Okay. Arcangelo and  
21 his friend paid Y-E-S-T for yesterday. Tom said he was  
22 waiting on you.

23 Q. In the context of this thread, do you believe that Tom to  
24 be a reference to Tom Napoli?

25 A. Yes.

12:35PM 1 Q. Please continue. What does Mr. Bongiovanni respond?

12:35PM 2 A. Same day, he responds: I'll call him now.

12:35PM 3 Mr. Gerace responds: Okay.

12:35PM 4 Still July 13th, Mr. Bongiovanni says: Tom's going to  
12:36PM 5 call me tomorrow at 10 a.m. He has to get someone to cover  
12:36PM 6 at work. Once he does that and we are in, I'll call you to  
12:36PM 7 meet you to pay. Either way, I'll call you.

12:36PM 8 Q. And what's the next message?

12:36PM 9 A. July 13th, Mr. Gerace says: Okay, Joe. Thanks. Love to  
12:36PM 10 see you. We will have fun.

12:36PM 11 Same day Mr. Bongiovanni says: Me, too.

12:36PM 12 Q. What's the next message?

12:36PM 13 A. Still July 13th. Mr. Gerace says: Pig roast after will  
12:36PM 14 be fun.

12:36PM 15 Same day Mr. Bongiovanni says: Cool.

12:36PM 16 Still July 13th, Mr. Gerace says: I'll be there at noon.

12:36PM 17 July 13th, at -- when is this, about 11:52 a.m.

12:36PM 18 Mr. Bongiovanni says: Leaving my office now.

12:36PM 19 Same day, same time roughly, Mr. Gerace says: Okay.

12:37PM 20 And then sends another text message that says: Employee  
12:37PM 21 E-N-T on Aero.

12:37PM 22 Q. Now you've been to the Pharaoh's Gentlemen's Club when it  
12:37PM 23 was being searched; is that right?

12:37PM 24 A. Yes.

12:37PM 25 Q. Is there what appears to be an employee entrance on Aero



12:37PM 1 Drive in terms of the physical structure?

12:37PM 2 A. Yes, it's on the wall that faces Aero Drive.

12:37PM 3 Q. Do you believe that's what's being referenced in that

12:37PM 4 text message for Mr. Bongiovanni to go to the employee

12:37PM 5 entrance?

12:37PM 6 A. Yes.

12:37PM 7 Q. Please continue the texts and where they pick up.

12:37PM 8 A. July 14th, Mr. Bongiovanni says: Those are bad ass kick,

12:37PM 9 bro.

12:37PM 10 Same day Mr. Gerace responds: Get 'em, Joe.

12:37PM 11 Q. Do you believe they're talking about shoes there?

12:37PM 12 A. Yes.

12:37PM 13 Same date, Mr. Bongiovanni says: Gonna for sure.

12:37PM 14 And then the next text is the next day July 15th from

12:38PM 15 Mr. Bongiovanni: Going up to Boss tonight. What day is your

12:38PM 16 golf tournament again?

12:38PM 17 Q. And what is the reference to Boss? Do you have an

12:38PM 18 understanding of that?

12:38PM 19 A. I think it's the restaurant that used to be at Hertel and

12:38PM 20 Starin.

12:38PM 21 Q. Okay.

12:38PM 22 A. Steak restaurant.

12:38PM 23 Q. And what did Mr. Gerace respond?

12:38PM 24 A. He responded on July 15th with: Pharaoh's 6th annual

12:38PM 25 golf outing, Wednesday, July 29. Included, limo, food,

booze, girls, and pig roast. Limited spots. First to pay are in. Money due before July 10th. \$600 foursome.

**THE COURT:** Do we have to read that text every time it comes up, Mr. Tripi?

**MR. TRIPI:** Yeah, Judge, I was going to interrupt him there. I should have. Well taken.

**BY MR. TRIPI:**

Q. All right. What's your next text?

A. Same day from Mr. Gerace: What day is your B day?

Q. And what did Mr. Bongiovanni respond?

A. Same day: Saturday.

Q. Please continue.

A. And then this is all July 15th. Mr. Gerace says: Okay.

Then another text that says: I'm kid free.

And then another text that says: I'm taking Nick to fest T-O-M probably for tomorrow afternoon.

Q. And what is the next text?

A. On July 15th Mr. Bongiovanni says: We are meeting at my house for drinks, then to Boss or Scinta's if it don't rain at the festival. Come over, bro.

Q. This time period, was there a yearly festival on Hertel Avenue in Buffalo where Boss is located at the time, it was called the Italian festival?

A. Yes.

Q. Do you believe it to be what's being referenced by fest,

12:39PM 1 short for festival?

12:39PM 2 A. Yes.

12:39PM 3 Q. Please continue with the text between the two.

12:39PM 4 A. So still July 15th Mr. Gerace says: When?

12:39PM 5 And Mr. Bongiovanni responds: Around 5 p.m.

12:40PM 6 Still July 15th, Mr. Gerace asks: What day?

12:40PM 7 Mr. Bongiovanni responds: Saturday.

12:40PM 8 And that's the end of July 15th. And then it jumps to

12:40PM 9 July 18th.

12:40PM 10 Q. And based upon your research, was that July 18th, 2015 a

12:40PM 11 Saturday?

12:40PM 12 A. Yes.

12:40PM 13 Q. Okay. So this is the day they were just talking about?

12:40PM 14 A. Yes.

12:40PM 15 Q. Please continue from there.

12:40PM 16 A. Mr. Gerace says: Happy B day.

12:40PM 17 Then sends another text that says: What's the plan?

12:40PM 18 And a third text that says: What's your address?

12:40PM 19 And then July 18th, Mr. Bongiovanni responds 85 Alder

12:40PM 20 Place, Tonawanda.

12:40PM 21 Q. Let me ask you this: In your career, in your experience,

12:40PM 22 have you given confidential sources and/or sources of

12:40PM 23 information your personal home address?

12:40PM 24 A. No, never.

12:40PM 25 **MR. TRIPI:** Please continue scrolling, Ms. Champoux.

12:40PM

1

**BY MR. TRIPI:**

12:41PM

2

Q. And can you read the next message?

12:41PM

3

A. Mr. Bongiovanni says: About 4 p.m. Then we are going G

12:41PM

4

up to F-B-E and then Boss, I think it's a typo.

12:41PM

5

Q. Again, is Boss believed to be the reference to that

12:41PM

6

restaurant?

12:41PM

7

A. Yes.

12:41PM

8

Q. Next message?

12:41PM

9

A. He writes again: To Boss. Don't mention the golf

12:41PM

10

tournament to L-I-N-D-A-Y, which I think is supposed to be

12:41PM

11

Lindsay.

12:41PM

12

Q. And what actual time is that message? It says 7:56 p.m.

12:41PM

13

in this text, but is that 2:56 p.m.?

12:41PM

14

A. It would be 3:56 in July.

12:41PM

15

Q. In July. Sorry.

12:41PM

16

A. Yep.

12:41PM

17

Q. Four hour difference there.

12:41PM

18

A. Yes.

12:41PM

19

Q. Please continue.

12:41PM

20

A. This is on 7/18. Mr. Gerace: I know. What time Boss?

12:41PM

21

And Mr. Gerace says: I just woke up.

12:41PM

22

Mr. Bongiovanni responds: 6:30 p.m.

12:42PM

23

Mr. Gerace says: Can you get me in for dinner W U,

12:42PM

24

shorthand for with you. Just 2.

12:42PM

25

Q. Now at this time, Mr. Gerace is married to Katrina Nigro,

12:42PM 1 correct?

12:42PM 2 A. Yes.

12:42PM 3 Q. Do you -- is that your understanding of the reference to

12:42PM 4 just 2?

12:42PM 5 A. Yes.

12:42PM 6 Q. Please continue.

12:42PM 7 A. Still July 18th. Mr. Gerace asks: How many people

12:42PM 8 having dinner?

12:42PM 9 Mr. Bongiovanni responds: Yes. We have a big table.

12:42PM 10 Some people are doing dinner, others are doing apps.

12:42PM 11 Same day Mr. Gerace says: Can we get in?

12:42PM 12 Mr. Bongiovanni says: Yeah, you got your ID?

12:42PM 13 Mr. Gerace responds: LOL. And then Mr. Gerace asks:

12:42PM 14 How old are you now?

12:42PM 15 Mr. Bongiovanni responds: 41.

12:42PM 16 Q. Please continue.

12:42PM 17 A. Mr. Gerace says: Ha, ha, good try. But I'll go --

12:43PM 18 shorthand for with it.

12:43PM 19 Then Mr. Gerace says: Call me. And then still on

12:43PM 20 July 18th, he says: Anthony is stopping up.

12:43PM 21 Q. And about what time is that in realtime, July 18th, 2015

12:43PM 22 at what time?

12:43PM 23 A. 5:56 p.m.

12:43PM 24 Q. So that's about 40 minutes or so before the dinner was

12:43PM 25 supposed to start?

12:43PM 1 A. Yes.

12:43PM 2 Q. Please continue. What does Mr. Bongiovanni respond

12:43PM 3 when -- after Mr. -- after Peter Gerace writes Anthony is

12:43PM 4 stopping up?

12:43PM 5 A. He wrote cool.

12:43PM 6 Then Mr. Gerace asks again: What time dinner?

12:43PM 7 Mr. Bongiovanni responds: We are here now, but no

12:43PM 8 ordered yet.

12:43PM 9 Then Mr. Bongiovanni says: 6:30. I'll wait for you. I

12:43PM 10 got three seats.

12:43PM 11 Q. And is three consistent with the number of people Peter

12:43PM 12 Gerace, his wife, and his brother Anthony?

12:44PM 13 A. Yes.

12:44PM 14 Q. Please continue.

12:44PM 15 A. Then the last text on July 18th says -- is from

12:44PM 16 Mr. Gerace, and it says: I'm on way.

12:44PM 17 Q. Okay. Is that the last text for July 18th, 2015, I'm on

12:44PM 18 way?

12:44PM 19 A. Yes.

12:44PM 20 Q. And then there's about three day delay until there's more

12:44PM 21 texts; is that right?

12:44PM 22 A. Yes.

12:44PM 23 Q. And what's that next text message?

12:44PM 24 A. It's from Mr. Gerace, it says: Stockman's Tavern.

12:44PM 25 Q. Is that a bar?

12:44PM 1 A. Yes, on Transit Road.

12:44PM 2 Q. And what does Mr. Bongiovanni respond on July 21st, 2015?

12:44PM 3 A. Let's do it. Call me.

12:44PM 4 Q. Okay. Please continue from there.

12:44PM 5 A. Mr. Gerace on the same day says: Okay. And then that's

12:44PM 6 it for July 21st, and it jumped to August 3rd.

12:44PM 7 Q. Can you pick it up from there, August 3rd?

12:44PM 8 A. Mr. Bongiovanni says: Peter, if I wanted to send you a

12:44PM 9 letter, which address do you have?

12:45PM 10 Q. And what did Mr. -- did Mr. Gerace respond and text to

12:45PM 11 that?

12:45PM 12 A. On August 6th, he said: Thanks for the note, Joe.

12:45PM 13 Always there for you.

12:45PM 14 Q. So there was no direct response to the text on

12:45PM 15 August 3rd; is that right?

12:45PM 16 A. No text response. But --

12:45PM 17 Q. But the next text that we do see is thanks for the note

12:45PM 18 Joe, always there for you?

12:45PM 19 A. Yes, on August 6th.

12:45PM 20 Q. Okay. Please continue from there.

12:45PM 21 A. August 6th, Mr. Bongiovanni says: Love you, bro. Sorry

12:45PM 22 I've been crazy busy. And I owe you clams casino and we will

12:45PM 23 get them soon.

12:45PM 24 Same day Mr. Gerace says: It's 9-14 August Paradise Bay

12:45PM 25 Camp, Findlay Lake, cabin 2 and 3. Then Mr. Gerace says:

12:45PM 1 Love to see you. That's it for August 6th.

12:45PM 2 Q. Does that seem like or does that indicate that Mr. Gerace

12:46PM 3 invited Mr. Bongiovanni camping to Findlay Lake?

12:46PM 4 A. That's the way it reads to me, yes.

12:46PM 5 Q. Then they pick up again August -- or excuse me,

12:46PM 6 October 14th, 2015?

12:46PM 7 A. Yes.

12:46PM 8 Q. And who, who reaches out?

12:46PM 9 A. Mr. Gerace says: What you doing, bud? And sends another

12:46PM 10 text that says: We have to get lunch soon.

12:46PM 11 And then a third text on October 14th that says: I'm

12:46PM 12 going to Vegas Sunday.

12:46PM 13 Q. Okay. Then does the texting pick back up November 30th,

12:46PM 14 2015?

12:46PM 15 A. Yes.

12:46PM 16 Q. And what does Mr. Gerace say there?

12:46PM 17 A. Mr. Gerace says: Hope all going well. Like to get

12:46PM 18 together soon.

12:46PM 19 Q. Then is there another sort of gap in texts from

12:46PM 20 November 30th, 2015 to January 15th, 2016?

12:46PM 21 A. Yes.

12:46PM 22 Q. Who texts?

12:46PM 23 A. Mr. Gerace says: What's up.

12:47PM 24 **THE COURT:** Okay. We're in a new year, so let's take

12:47PM 25 a break. We'll take our lunch break now, folks.



1 Please remember my instructions. Don't communicate  
2 about the case including with each other. Don't use tools of  
3 technology to research the case or communicate about the case.  
4 Don't read, watch, or listen to any news coverage about the  
5 case if there is any while the case in progress. And don't  
6 make up your mind about anything until you start deliberating.

7 We'll see you back at about a quarter to 2, so about  
8 an hour. Thanks.

9 (Jury excused at 12:47 p.m.)

10 **THE COURT:** Okay. Anything before we break?

11 **MR. COOPER:** Just a housekeeping matter.

12 **MR. TRIPI:** You can step down.

13 **MR. COOPER:** Just a housekeeping matter. Special  
14 Agent Burns just asked me if it would be okay with the Court  
15 if agents can stay in the courtroom during the break because  
16 there's drug evidence in here, to prevent them from having to  
17 bring it back somewhere. Is the Court okay with that?

18 **THE COURT:** I'm not -- I'm confused.

19 **MR. COOPER:** An agent wants to stay physically in the  
20 courtroom since there's drugs in here, as opposed to taking  
21 the drugs and bringing them somewhere else during the one-hour  
22 break. Are you okay with that?

23 **THE COURT:** With someone staying in the courtroom  
24 while we're on our break?

25 **MR. COOPER:** Yes, sir.

**THE COURT:** Of course.

**MR. COOPER:** Okay. Just checking.

**THE COURT:** No, of course.

**MR. TRIPI:** And then the only thing, Judge, I just

wanted to --

I went back and I looked at the transcript, and I

felt like we actually spent more time when we ping-ponged back

and forth going to different portions, and then having to go

back and put it back in context, so that's why I made the

decision to just go through them all.

I actually, as tedious as it seems, I feel like this

is gonna save a little time. Maybe I'm wrong, but that's why.

I just wanted to let you know I at least thought about it, and

that's why I did it.

**THE COURT:** Look it. I don't want to tell anybody

how to try their cases. I swore I wasn't gonna do that. So

you do whatever you think you need to do, and if there are

objections, I will entertain them.

Okay. Anything from the defense?

**MR. MacKAY:** No, Your Honor.

**THE COURT:** Okay. We'll see you in about an hour.

(Off the record at 12:49 p.m.)

(Back on the record at 1:51 p.m.)

(Jury not present.)

**THE CLERK:** All rise.

01:51PM 1 **THE COURT:** Please be seated.

01:51PM 2 **THE CLERK:** We are back on the record for the  
01:51PM 3 continuation of the jury trial in case number 19-cr-227,  
01:51PM 4 United States of America versus Joseph Bongiovanni.

01:51PM 5 All counsel and parties are present.

01:51PM 6 **THE COURT:** Okay. Anything we need to do before we  
01:51PM 7 bring them back?

01:51PM 8 **MR. COOPER:** Just one scheduling thing I want to put  
01:51PM 9 on your radar. Tomorrow we have C.C. scheduled to testify.  
01:52PM 10 He's in a rehabilitation or treatment facility that's pretty  
01:52PM 11 far away, it's about a five-hour trip in each direction. So  
01:52PM 12 we've arranged for his transportation here and transportation  
01:52PM 13 back. But because of the lengthy trip, we really need to make  
01:52PM 14 sure that we're able to get him up tomorrow. And so I would  
01:52PM 15 ask, I don't know think it will be necessary given the  
01:52PM 16 progress we've made, but if for some reason we're in the  
01:52PM 17 middle of a witness and we need to pivot, I would just ask for  
01:52PM 18 the indulgence of the defense and the Court.

01:52PM 19 **THE COURT:** Any problem with that?

01:52PM 20 **MR. SINGER:** No. No, Judge that's fine.

01:52PM 21 **MR. COOPER:** Thank you everybody.

01:52PM 22 **THE COURT:** Absolutely. No, whenever there's an  
01:52PM 23 issue with a witness timing like that, I'm always generous  
01:52PM 24 about that. And unless there's a good reason and -- an  
01:52PM 25 objection and good reason for the objection on the other side,

01:52PM 1 I'll always allow that.

01:52PM 2 **MR. COOPER:** We appreciate that, Judge. Thank you,  
01:52PM 3 defense.

01:52PM 4 **THE COURT:** Anything else, defense?

01:52PM 5 **MR. MacKAY:** No.

01:52PM 6 **THE COURT:** Okay. Let's bring them in, please, Pat.

01:52PM 7 **MR. TRIPI:** Can we get Curtis up?

01:53PM 8 (Witness and Jury seated at 1:53 p.m.)

01:54PM 9 **THE COURT:** Welcome back from lunch.

01:54PM 10 The record will reflect that all our jurors are  
01:54PM 11 present.

01:54PM 12 I'll remind the witness that he's still under oath.

01:54PM 13 And, Mr. Tripi, you may continue.

01:54PM 14 **MR. TRIPI:** Thank you.

01:54PM 15 **BY MR. TRIPI:**

01:54PM 16 Q. Special Agent Ryan, before the break we had made it to  
01:54PM 17 2016. If you can pick up and read the text message that  
01:54PM 18 Mr. Gerace sent to Mr. Bongiovanni February 22nd, 2016.

01:54PM 19 A. Yes. It says: What's up stranger?

01:54PM 20 Q. And did Mr. Bongiovanni respond to that?

01:54PM 21 A. Yes, the same day, he said: What up, Bro? Saw you  
01:54PM 22 brother in Toronto last weekend.

01:54PM 23 **MR. TRIPI:** And can we scroll down a little bit  
01:54PM 24 Ms Champoux?

01:54PM 25 **BY MR. TRIPI:**

01:54PM 1 Q. Did Mr. Gerace respond to that?

01:54PM 2 A. Yes. On the same day he said: Anthony?

01:54PM 3 Q. And what did Mr. Bongiovanni reply?

01:54PM 4 A. Same day: Yes, sir. It was -- T was my wife's sister

01:55PM 5 Ashley 30 birthday.

01:55PM 6 **MR. TRIPI:** Ms. Champoux, can we pull up Government  
01:55PM 7 Exhibit 126 in evidence.

01:55PM 8 **BY MR. TRIPI:**

01:55PM 9 Q. Again, is that the photograph from that referencing that  
01:55PM 10 trip in Toronto as far as you understand it?

01:55PM 11 A. Yes, that's my understanding.

01:55PM 12 **MR. TRIPI:** We can take down 126, Ms. Champoux.

01:55PM 13 **BY MR. TRIPI:**

01:55PM 14 Q. All right. The next day, did Mr. Gerace write to  
01:55PM 15 Mr. Bongiovanni again?

01:55PM 16 A. He did. He said: Cool. When we getting together.

01:55PM 17 Q. And then after of that, did Mr. Gerace -- is the next  
01:55PM 18 text message further in time forward to March 6, 2016?

01:55PM 19 A. Yes, it's a photograph of Mr. Gerace and another male.

01:56PM 20 Q. And are you generally familiar with the background  
01:56PM 21 setting of that photo?

01:56PM 22 A. No.

01:56PM 23 Q. Does Pharaoh's have red walls?

01:56PM 24 A. It does.

01:56PM 25 Q. Okay. Do you recognize the individual who's in that

01:56PM 1 photo with Mr. Gerace?

01:56PM 2 A. Yes.

01:56PM 3 Q. Who is that?

01:56PM 4 A. It's a movie actor, Lillo Brancato.

01:56PM 5 Q. And just to frame it for the jury, was he in a couple

01:56PM 6 movies like the Bronx Tale, and in a TV series called the

01:56PM 7 Sopranos?

01:56PM 8 A. He was in both of those, yes.

01:56PM 9 **MR. TRIPI:** Keep scrolling down, Ms. Champoux. The  
01:56PM 10 next text message is from April 19th, 2016.

01:56PM 11 **BY MR. TRIPI:**

01:56PM 12 Q. What's that say?

01:56PM 13 A. It says -- it's from Mr. Gerace, it says: Is Joel V  
01:56PM 14 still at US ATTNY, for attorney.

01:56PM 15 Q. What did Mr. Bongiovanni respond?

01:56PM 16 A. Same date, he said: Yes.

01:56PM 17 Q. And what did Mr. Gerace write back?

01:56PM 18 A. On the same date: Do you have his number?

01:57PM 19 And then another text: He must have recently changed it.

01:57PM 20 Q. And what did Mr. Bongiovanni respond on that day?

01:57PM 21 A. Two texts. The first one says: Only his office number,  
01:57PM 22 716-843-5700.

01:57PM 23 And then the next text says: I don't have his cell  
01:57PM 24 anymore.

01:57PM 25 Q. Okay. And did you vet that information in your

01:57PM 1 investigation?

01:57PM 2 A. Yes.

01:57PM 3 Q. All right. And did you understand that Mr. Violanti and

01:57PM 4 Mr. Gerace have no personal relationship?

01:57PM 5 A. Yes.

01:57PM 6 Q. Is it your understanding that they met one time through

01:57PM 7 Mr. Bongiovanni?

01:57PM 8 A. Yes.

01:57PM 9 Q. Okay. Moving on to May 13th, 2016. Can you read the

01:57PM 10 text messages that date?

01:57PM 11 A. Yes. So the first one's from Mr. Gerace that says: I

01:57PM 12 need your address. And then another message right after that

01:57PM 13 says: Home address.

01:57PM 14 Q. And what did Mr. Bongiovanni write?

01:58PM 15 A. 85 Alder Place, Tonawanda, New York 14223.

01:58PM 16 Q. So is this the second time in this thread of messages

01:58PM 17 where the defendant has provided Mr. Gerace his home address?

01:58PM 18 A. Yes.

01:58PM 19 Q. And what's the next message in the thread from May 22nd,

01:58PM 20 2016?

01:58PM 21 A. It's from Mr. Gerace, it says: Did you get invite?

01:58PM 22 Q. And actually if we look at that time of that message,

01:58PM 23 that message was actually written on May 21st; is that right?

01:58PM 24 A. Local time, yes.

01:58PM 25 Q. And what did Mr. Bongiovanni respond?

01:58PM 1 A. Yes, Bro, I got it. We will see you then, and thanks the  
01:58PM 2 invitation.

01:58PM 3 Q. And please continue. What was the next question?

01:58PM 4 A. Same date. Mr. Gerace: Great. And then it skips to May  
01:58PM 5 28, 2016.

01:58PM 6 Q. On May 28th, 2016, what did Mr. Bongiovanni write?

01:59PM 7 A. It says: I'm 8 N, which is I think a typo for in, the  
01:59PM 8 shower. I'll call you back.

01:59PM 9 Mr. Gerace says: Who does eyebrows?

01:59PM 10 And then a second text message that says: At Good to  
01:59PM 11 Glow.

01:59PM 12 Q. And what did Mr. Bongiovanni respond to that?

01:59PM 13 A. Lindsay's sister Ashley.

01:59PM 14 Q. Can you please continue? What's the next message that  
01:59PM 15 day?

01:59PM 16 A. Last message that day is: Where is it? From Mr. Gerace.

01:59PM 17 Q. And then what -- what's the text message on the next day?

01:59PM 18 A. It says: Great time. Miss you brother. That's from  
01:59PM 19 Mr. Gerace.

01:59PM 20 Q. That's also May 28th, 2016, but later at night, right?

01:59PM 21 A. Yes.

01:59PM 22 Q. And did Mr. Bongiovanni respond that same day, the 28th?

01:59PM 23 A. Yes. It says: Awesome time, and then a typo, but maybe  
01:59PM 24 it's supposed to be with, and then it says you guys. And I'm  
02:00PM 25 glad your, another typo, but home safe. We will get together



02:00PM 1 for dinner soon.

02:00PM 2 Q. Is that an indication to you that they were together at

02:00PM 3 some place?

02:00PM 4 A. Yes.

02:00PM 5 Q. And what's the next message on actually May 28th, but

02:00PM 6 late at night?

02:00PM 7 A. Mr. Gerace says: Okay. And then: Boss.

02:00PM 8 Q. Does -- do the messages then skip forward to June 9th,

02:00PM 9 2016?

02:00PM 10 A. Yes.

02:00PM 11 Q. Does Mr. Gerace provide a name of someone related to a

02:00PM 12 offense?

02:00PM 13 A. Yes, it says fence, and then the name Danny Ricotta.

02:00PM 14 Q. What's the next message?

02:00PM 15 A. Same day, Mr. Bongiovanni says: Thank you, Peter.

02:00PM 16 And then the same day, Mr. Gerace says: Let me know if

02:00PM 17 you need number.

02:00PM 18 Q. Okay. And then we have a picture of a fish on June 11th,

02:01PM 19 we can scroll past that.

02:01PM 20 Another picture of a fish on June 11th.

02:01PM 21 Another picture of a fish on June 11th; is that right?

02:01PM 22 A. Yes.

02:01PM 23 Q. And does Mr. Bongiovanni respond to those three text

02:01PM 24 messages?

02:01PM 25 A. Yes. On June 11th, he says: Nice, Bro.

02:01PM 1 Q. And on June 17th, 2016 what does Mr. Bongiovanni write?

02:01PM 2 A. Yes, bro. It will be just me. My wife works tonight.

02:01PM 3 Q. And what does Mr. Gerace respond?

02:01PM 4 A. Same day, he says: Okay, bring Tommy.

02:01PM 5 Q. Did Mr. Bongiovanni reply to that?

02:01PM 6 A. He did. So it's still June 17th, he says: Pete, on my  
02:01PM 7 way. What are people wearing? Suit?

02:01PM 8 Mr. Gerace responds: Yes. And then he sends a message  
02:01PM 9 after that that says I'm bringing them in at 7.

02:01PM 10 Q. Is it your understanding that around this time there was  
02:02PM 11 a 50th anniversary for Mr. Gerace's parents?

02:02PM 12 A. Yes.

02:02PM 13 Q. Does it seem like these texts about bringing them in  
02:02PM 14 relate to that?

02:02PM 15 A. Yes.

02:02PM 16 Q. June 17th, 2016, Mr. Bongiovanni responds?

02:02PM 17 A. Yep. He says: Okay, got it.

02:02PM 18 And then same day, Mr. Gerace says: First banquet room  
02:02PM 19 in back.

02:02PM 20 And then the last one on the page is Mr. Bongiovanni  
02:02PM 21 saying: On my way. Got out of work at 6 p.m.

02:02PM 22 **MR. TRIPI:** Can we scroll down from there  
02:02PM 23 Ms. Champoux.

02:02PM 24 **BY MR. TRIPI:**

02:02PM 25 Q. The next day, does Mr. Bongiovanni write a text to

02:02PM 1 Mr. Gerace?

02:02PM 2 A. Yes. It says: Great -- great time last night. It was  
02:02PM 3 great to see your parents. Thanks again for the invitation.

02:02PM 4 Q. The next day on July -- excuse me, June 19th, does  
02:02PM 5 Mr. Gerace reach out and write something to Mr. Bongiovanni.

02:02PM 6 A. He does. He says: Happy Father's Day.

02:03PM 7 And Mr. Bongiovanni replies: Happy Father's Day to you  
02:03PM 8 my friend.

02:03PM 9 And that's it for that day.

02:03PM 10 Q. The next message picks up on June 26th, 2016. What does  
02:03PM 11 that say?

02:03PM 12 A. From Mr. Bongiovanni: Cool, Bro. I'm going to get my  
02:03PM 13 brother-in-law Thomas downtown, then I'm heading your way.  
02:03PM 14 Sorry for the delay, bro.

02:03PM 15 Then Mr. Gerace says: Hurry.

02:03PM 16 Then same day Mr. Bongiovanni says: Peter, I'm sorry I  
02:03PM 17 didn't make it out there. I ran into Roy Espinosa. Then  
02:03PM 18 I -- I think that's supposed to be was pulled 87 different  
02:03PM 19 directions. Love you, Bro.

02:03PM 20 Q. Okay. Can you read the next message from June 27th, 2016  
02:03PM 21 from Mr. Gerace?

02:03PM 22 A. Yes. It says: It's okay, just wanted to hook up. Ended  
02:03PM 23 up taking Slick Tom from 97 Rock back to Pharaoh's. We had a  
02:03PM 24 great time. Was packed.

02:03PM 25 Q. And is there another text message on July 7th from

02:04PM 1 Mr. Gerace to Mr. Bongiovanni?

02:04PM 2 A. Yes. It says: You should come visit. I'm in

02:04PM 3 Ellicottville until Sunday, S-U-N, I assume it's Sunday.

02:04PM 4 Q. And the next day does Mr. Bongiovanni respond to that?

02:04PM 5 A. He does. He says: Thanks bro, but I have Doctor's

02:04PM 6 birthday S-A-T for Saturday and parents dinner on Sunday.

02:04PM 7 Have fun. Be safe buddy.

02:04PM 8 Q. Do you believe the Doctor's birthday references Tom

02:04PM 9 Doctor?

02:04PM 10 A. Yes.

02:04PM 11 Q. What's the next message on July 29th for Mr. Bongiovanni?

02:04PM 12 A. Yes, I do, bro. Hope you are well. I been hanging

02:04PM 13 around not doing too much.

02:04PM 14 Q. And then on July 29th, there's a message from Mr. Gerace.

02:04PM 15 What did he write?

02:04PM 16 A. He wrote: Did Ellicottville for a week. Just got back.

02:04PM 17 Week of camping.

02:04PM 18 Q. And please read Mr. Bongiovanni's response that day.

02:04PM 19 A. Nice. Hope you had a good time. I'm trying to get a

02:04PM 20 crew together for the Bills game in the Miami in October.

02:05PM 21 Q. That year, did the Bills play the Miami dolphins in

02:05PM 22 October?

02:05PM 23 A. Yes.

02:05PM 24 Q. Please continue. What's the next text message?

02:05PM 25 A. Mr. Gerace says: What's the date we are going to Aruba?

02:05PM 1 Mr. Bongiovanni replies to that on August 3rd and says:

02:05PM 2 Bro, not this year.

02:05PM 3 Q. So by this point in reviewing the texts, did you develop

02:05PM 4 an understanding that these two were close friends?

02:05PM 5 A. Yes.

02:05PM 6 Q. Please continue with the text messages.

02:05PM 7 A. So on August 3rd, Mr. Gerace says: Okay.

02:05PM 8 August 8th, Mr. Bongiovanni says: Sounds good, Bro.

02:05PM 9 Then on September 6th, Mr. Bongiovanni says: We are not  
02:05PM 10 going to the game. I don't even want to go on the trip. I  
02:05PM 11 don't want you to book and we flake out. I need peace.

02:05PM 12 Same day Mr. Bongiovanni says: Going through shit now,  
02:06PM 13 brother, sorry.

02:06PM 14 Mr. Gerace responds on the same day: Sorry.

02:06PM 15 **MR. TRIPI:** Can we scroll down Ms. Champoux.

02:06PM 16 **THE WITNESS:** Same day Mr. Gerace says: You want to  
02:06PM 17 go -- or, you want to golf S-A-T for probably Saturday a.m. I  
02:06PM 18 paid for foursome 8:30, Rothland.

02:06PM 19 **BY MR. TRIPI:**

02:06PM 20 Q. And did Mr. Bongiovanni respond to that invitation to  
02:06PM 21 golf?

02:06PM 22 A. I'm sorry, it's not you, it my psycho wife. Let me work  
02:06PM 23 this out.

02:06PM 24 Q. And what did Mr. Gerace respond to that?

02:06PM 25 A. Always here for you, brother.

02:06PM 1 And then another text that says: It's okay. I just got  
02:06PM 2 call from state police.

02:06PM 3 Q. And what did Mr. Bongiovanni reply?

02:06PM 4 A. He wrote: Thanks.

02:06PM 5 And then there's another message under that one that I  
02:06PM 6 can't see yet from Mr. Bongiovanni it says: For what?

02:06PM 7 Q. And then does Mr. Gerace respond?

02:06PM 8 A. He said -- he does. He says: Ex said I threaten. Then  
02:07PM 9 it says: I have order of protection against her. Then a  
02:07PM 10 third says: Amherst PD straightened out. Caught her lying  
02:07PM 11 again.

02:07PM 12 Q. And what does Mr. Bongiovanni respond?

02:07PM 13 A. Get a restraining order on her so she can't accuse you.

02:07PM 14 Then Mr. Gerace said: I did. Police were going to send  
02:07PM 15 to DA. LOL is the next message from Mr. Gerace.

02:07PM 16 And then he says in the third message: Even though they  
02:07PM 17 had no proof.

02:07PM 18 Q. And what did Mr. Bongiovanni write next on that same day?

02:07PM 19 A. It says: Document all calls, texted and photographs.

02:07PM 20 And then Mr. Gerace responds: I never call her.

02:07PM 21 In another message it says: I do, trying have her  
02:07PM 22 arrested tomorrow.

02:07PM 23 Mr. Bongiovanni on the same day responds: Don't isolate  
02:07PM 24 yourself, and time will make things right.

02:07PM 25 And then the second message said: I'm going through the

02:08PM 1 same shit. Always accusing me of cheating.

02:08PM 2 Q. So are these two in this portion of the thread discussing

02:08PM 3 personal situations with each other?

02:08PM 4 A. Yes.

02:08PM 5 Q. Regarding their wives?

02:08PM 6 A. Yes.

02:08PM 7 Q. Have you ever discussed your family situation with a

02:08PM 8 confidential source or a source of information?

02:08PM 9 A. No.

02:08PM 10 Q. Can you continue with the 9/6/2016, what does Mr. Gerace

02:08PM 11 write next?

02:08PM 12 A. So there are at least four text messages. The first one

02:08PM 13 is: Lawyer Amherst PD all over it.

02:08PM 14 Second is: You never cheat.

02:08PM 15 Third is: You never would.

02:08PM 16 And the fourth is: I know how much you love her.

02:08PM 17 Q. And what did Mr. Bongiovanni respond to?

02:08PM 18 A. That on the same day, he says: Thanks, bro.

02:08PM 19 And then Mr. Gerace says: Well, SAT is paid for. Only

02:09PM 20 golf to one.

02:09PM 21 Q. And then what did -- so in response to reference to golf

02:09PM 22 what does Mr. Bongiovanni write?

02:09PM 23 A. It's the last text on 9/6, it says: Thanks man. And

02:09PM 24 that's the end of the 9/6 conversation.

02:09PM 25 Q. And then the text thread forward picks up again about

02:09PM 1 eight days later on September 14th, 2016?

02:09PM 2 A. Yes.

02:09PM 3 Q. What does Mr. Bongiovanni start by writing?

02:09PM 4 A. In court.

02:09PM 5 And then Mr. Gerace says: Okay, I'm downtown.

02:09PM 6 Mr. Bongiovanni replies: Trial prep.

02:09PM 7 Mr. Gerace replies: Okay.

02:09PM 8 And then on 9/19 Mr. Bongiovanni says: In court on  
02:09PM 9 trial. Call you soon.

02:09PM 10 Mr. Gerace responds with: Okay.

02:09PM 11 And then it skips to October 3rd.

02:09PM 12 Q. And what did Mr. Bongiovanni write October 3rd?

02:09PM 13 A. It says: Peter, I'm sorry I've not responded. I have  
02:10PM 14 been using another phone. I just saw messages and I'm  
02:10PM 15 getting back to people.

02:10PM 16 October 3rd, Mr. Gerace responds with three messages:  
02:10PM 17 It's okay. You call me when you want, or when you what, and  
02:10PM 18 he corrects it to want.

02:10PM 19 Q. And the next message are about a week later on  
02:10PM 20 October 10th, 2016?

02:10PM 21 A. Yes.

02:10PM 22 **MR. TRIPI:** Can we scroll down, Ms. Champoux?

02:10PM 23 **BY MR. TRIPI:**

02:10PM 24 Q. What did Mr. Bongiovanni write there?

02:10PM 25 A. He wrote: Great photo. Glad to see you happy again.



02:10PM 1 Q. Let me stop you there for a second. We don't see a photo  
02:10PM 2 in that text exchange, right?

02:10PM 3 A. Correct.

02:10PM 4 Q. Could that be an example of the extraction not getting  
02:10PM 5 all of the information that was in the -- in the phone or  
02:10PM 6 something that was deleted?

02:10PM 7 A. Yes.

02:10PM 8 Q. Okay. Because clearly there's a reference to a photo  
02:10PM 9 that we don't see; is that right?

02:10PM 10 A. Right.

02:10PM 11 Q. Okay. What is the response by Mr. Gerace?

02:10PM 12 A. So, on October 10th, he says: Very.

02:11PM 13 And then same day, Mr. Bongiovanni sends two texts. The  
02:11PM 14 first says: All that matters. And then the second says:  
02:11PM 15 Boarding my plane in Miami.

02:11PM 16 Q. So Mr. Bongiovanni was in Miami October 25th, 2016?

02:11PM 17 A. Yes, sir.

02:11PM 18 Q. Do you remember what day the Bills played the Dolphins  
02:11PM 19 that year in October?

02:11PM 20 A. I think it was the day before.

02:11PM 21 Q. Around that time?

02:11PM 22 A. It was definitely around that time.

02:11PM 23 Q. What did Mr. Gerace respond?

02:11PM 24 A. On October 25th, he said: Okay. And then a second  
02:11PM 25 message same day says: Safe flight.

02:11PM 1 And then it jumps to November 11th.

02:11PM 2 Q. And what does Mr. Bongiovanni write to Mr. Gerace on  
02:11PM 3 November 11th, 2016?

02:11PM 4 A. Hopefully soon, bro. I'm never out, but we have some  
02:11PM 5 birthday party tonight.

02:11PM 6 And then same day Mr. Gerace says: Soon.

02:11PM 7 Q. And what -- the next message goes forward in time to  
02:12PM 8 December 6th, 2016; is that right?

02:12PM 9 A. Yes. It's Mr. Bongiovanni, he says: Yes, I know who he  
02:12PM 10 is, but I don't know him well. That's a shame about his son.

02:12PM 11 Q. And what did Mr. Gerace respond?

02:12PM 12 A. Yeah. It was just talking with Pat Carney there.

02:12PM 13 Q. And what did Mr. Bongiovanni write on December 20, 2016,  
02:12PM 14 a couple weeks later?

02:12PM 15 A. He says: Yes, Bro. I have been busy. I don't even go  
02:12PM 16 anywhere. Maybe next week after Christmas. Have a great  
02:12PM 17 holiday. I'll be out this Thursday.

02:12PM 18 The same day, Mr. Gerace says: Okay, where Thursday?

02:12PM 19 And then same day Mr. Gerace says: Who you gonna be  
02:12PM 20 with?

02:12PM 21 Mr. Bongiovanni responds: I have a couple office parties  
02:12PM 22 I have to go, but I may end up at Bada-Bing later or Frankie  
02:13PM 23 Primo.

02:13PM 24 **MR. TRIPI:** Real quick, scroll back down

02:13PM 25 Ms. Champoux.

25 | A. Okay. And then Mr. Bongiovanni says: I'm chasing my

02:14PM 1 tail most of the time.

02:14PM 2 Mr. Gerace says, it's probably supposed to be we'll, but  
02:14PM 3 it says: Well make time, life is short.

02:14PM 4 Then it jumps to February 1st.

02:14PM 5 Q. What does Mr. Gerace write February 1, 2017?

02:14PM 6 A. We need to get together soon. And then there's no text  
02:14PM 7 until April 20th, 2017.

02:14PM 8 Q. And then what does Mr. Gerace say then?

02:14PM 9 A. Lunch soon?

02:14PM 10 Q. And does Mr. Bongiovanni respond to that?

02:14PM 11 A. He does. Same day, he says: Sure with, Sammy Caps, Ray,  
02:14PM 12 and Louie at Frankie Primo.

02:14PM 13 Q. Are you familiar with the reference to Sammy Caps?

02:14PM 14 A. Yes.

02:14PM 15 Q. Who do you believe that to be?

02:14PM 16 A. Sam Capitano.

02:15PM 17 Q. And who is he, if you know?

02:15PM 18 A. He's part of the leadership of a local labor union.

02:15PM 19 Q. Is that the Local 210?

02:15PM 20 A. Yes.

02:15PM 21 Q. And do you know the reference, do you have an  
02:15PM 22 understanding of the reference to Louie?

02:15PM 23 A. Yes, I believe that's Lou Selva.

02:15PM 24 Q. And what does Mr. Gerace respond to that?

02:15PM 25 A. On the same day, he just says yes.

02:15PM 1 Q. Okay. Then on May 4th, skipping forward to May 4th,  
02:15PM 2 2017, was there -- was there a voicemail audio that was left  
02:15PM 3 on Mr. Bongiovanni's phone that he responded to?

02:15PM 4 A. Yes.

02:15PM 5 Q. Is that Exhibit 311 that we talked about earlier?

02:15PM 6 A. Yes.

02:15PM 7 **MR. TRIPI:** Okay. Ms. Champoux, if you could play  
02:15PM 8 the audio that was Exhibit 311 that was on Mr. Bongiovanni's  
02:15PM 9 phone for the jury.

02:16PM 10 (311 audio was played.)

02:16PM 11 **MR. TRIPI:** Play it again from the beginning one more  
02:16PM 12 time, Ms. Champoux.

02:16PM 13 (311 Audio was played.)

02:16PM 14 **MR. TRIPI:** Just one moment, please, Your Honor.

02:16PM 15 I might need just a moment, Your Honor, I think  
02:17PM 16 something got cut off on the audio.

02:17PM 17 I'll circle back to it. I'll keep asking other  
02:17PM 18 questions.

02:17PM 19 **BY MR. TRIPI:**

02:17PM 20 Q. All right. You've heard that call, that voice message  
02:17PM 21 numerous times?

02:17PM 22 A. Yes.

02:17PM 23 Q. At the beginning, it sounded a little cut off there, does  
02:17PM 24 it say: Hey, Joe, it's Peter?

02:17PM 25 A. Yes.

02:17PM 1 Q. And what was Mr. Gerace asking Joe, the defendant, about  
02:17PM 2 in that call?

02:17PM 3 A. If it's possible to ping a regular phone or a TracFone  
02:17PM 4 like the police do.

02:17PM 5 Q. Okay. Now, you've used the term there "TracFone," right?  
02:17PM 6 What is a TracFone?

02:18PM 7 A. That's one brand of prepaid cell phone.

02:18PM 8 Q. In your experience, is that a type of cell phone  
02:18PM 9 particularly some years ago, in this general timeframe, that  
02:18PM 10 a lot of individuals involved in the drug trade utilized?

02:18PM 11 A. Yes.

02:18PM 12 Q. Is another word for it, a TracFone, would that be  
02:18PM 13 commonly associated with being a burner phone?

02:18PM 14 A. Yes.

02:18PM 15 Q. And does it sound like Mr. Gerace was asking  
02:18PM 16 Mr. Bongiovanni about that type of phone in that audio?

02:18PM 17 A. Either that type of phone, or a regular phone. And if  
02:18PM 18 there's a way to ping it, which is sort of like police jargon  
02:18PM 19 for locate.

02:18PM 20 Q. Yeah. I'll get to that in just a second.

02:18PM 21 A. Okay.

02:18PM 22 **MR. TRIPI:** Ms. Champoux, can we play that audio one  
02:18PM 23 more time?

02:18PM 24 (Audio was played.)  
25

02:19PM

1 **BY MR. TRIPI:**

02:19PM

2 Q. So when he says "ping it," what is your understanding of

02:19PM

3 what a ping is? Based upon your involvement in law

02:19PM

4 enforcement.

02:19PM

5 A. It's a way to locate the hand set or that phone in space.

02:19PM

6 A geolocation of the phone.

02:19PM

7 Q. Is that a sensitive law enforcement technique?

02:19PM

8 A. It is.

02:19PM

9 Q. Is that a technique that you only discuss amongst members

02:19PM

10 of law enforcement?

02:19PM

11 A. Yes.

02:19PM

12 Q. Is that actually a technique you've used in the past?

02:19PM

13 A. Yes.

02:19PM

14 **MR. TRIPI:** Ms. Champoux, can we pull back up

02:19PM

15 Exhibit 310D.

02:19PM

16 **BY MR. TRIPI:**

02:19PM

17 Q. Did Mr. Bongiovanni respond by text message to Peter

02:19PM

18 Gerace's voice message?

02:19PM

19 A. Yes.

02:19PM

20 Q. And what did he respond?

02:19PM

21 A. He said, yes, but you would need a warrant to get a ping

02:20PM

22 order.

02:20PM

23 Q. Now Mr. Gerace is not a member of law enforcement,

02:20PM

24 correct?

02:20PM

25 A. Correct.

Q. So in that exchange, was Mr. Bongiovanni providing law enforcement sensitive information to Mr. Gerace about pings?

A. Yes.

Q. Is that information you would ever share with someone who's not law enforcement?

**MR. MacKAY:** Objection.

**THE COURT:** Sustained.

**BY MR. TRIPI:**

Q. Why is it important to keep those type -- that type of information from being widely disseminated?

A. The more widely known that technique is, the easier it is for somebody to come up with a countermeasure to defeat it.

Q. And what are some countermeasures to that type of thing?

A. Burner phones are the first one. Constantly rotating your phone number. Turning off your cell data. There's ways to do it.

Q. If you try to get a search warrant for a ping for a phone, and you have to start over because they get a new phone, what does that do to the investigation?

A. It slows you down significantly. You have to identify the new number, associate the new number with the person you think is using it, develop probable cause that the new number is still involved in criminal activity. It can delay things by weeks or longer. Or you may never even find the new number.



02:21PM 1 Q. All right. And does Mr. Gerace respond to

02:21PM 2 Mr. Bongiovanni saying yes, but you would need a warrant to  
02:21PM 3 get a ping order?

02:21PM 4 A. He does. He sends two messages. The first says: Okay.  
02:21PM 5 And the second says: Thanks.

02:21PM 6 Q. So the information between the back and forth that's  
02:21PM 7 communicated regarding TracFones is that they can be tracked  
02:21PM 8 with a ping order; is that accurate?

02:21PM 9 A. Yes.

02:21PM 10 Q. Fast forwarding to May 9th, 2017, does Mr. Gerace write a  
02:22PM 11 text a couple days later to Mr. Bongiovanni?

02:22PM 12 A. He does. He says: Call me.

02:22PM 13 **MR. TRIPI:** If we can scroll down, Ms. Champoux.

02:22PM 14 **THE WITNESS:** And then a second text that says let me  
02:22PM 15 know if you can grab a coffee.

02:22PM 16 Mr. Bongiovanni responds: I'm at the air base all  
02:22PM 17 day, Bro.

02:22PM 18 Mr. Gerace says: Really? That's cool.

02:22PM 19 Mr. Bongiovanni says: Helicopters. And then:  
02:22PM 20 What's up?

02:22PM 21 And that's it for the day.

02:22PM 22 **BY MR. TRIPI:**

02:22PM 23 Q. And if we move forward in time about nine more days,  
02:22PM 24 there's a text message from Mr. Gerace and Mr. Bongiovanni  
02:22PM 25 May 18th, 2017; is that right?

02:22PM 1 A. Yes, it says lunch next week.

02:22PM 2 Q. And can you please continue from there?

02:23PM 3 A. August 17th, Mr. Bongiovanni says: I see you. And then  
02:23PM 4 the second message: The godfather.

02:23PM 5 Q. That August 17th, 2017 reference to the godfather, do you  
02:23PM 6 believe that to be the movie they're referencing?

02:23PM 7 A. Probably. And that's also August 16 in Buffalo.

02:23PM 8 Q. Yeah, I was gonna ask you, what's that actual date and  
02:23PM 9 time?

02:23PM 10 A. Yeah. So that's 9:00 at night, 9:11 on the 16th.

02:23PM 11 **MR. TRIPI:** We can scroll past the photo.

02:23PM 12 **BY MR. TRIPI:**

02:23PM 13 Q. Those next few, does it appear like Mr. Gerace is texting  
02:23PM 14 events that are happening at Pharaoh's to Mr. Bongiovanni?

02:23PM 15 A. Yes.

02:23PM 16 Q. So that brings us to September 8th, 2017. Can you tell  
02:23PM 17 us what Mr. Gerace writes there?

02:24PM 18 A. He says: Do you have John Linguino's number?

02:24PM 19 And Mr. Bongiovanni says: Sorry, I do not.

02:24PM 20 Q. And then what does Mr. Gerace respond?

02:24PM 21 A. Who would have it?

02:24PM 22 Mr. Bongiovanni says: Try Louie Selva.

02:24PM 23 Mr. Gerace says: Can you text him? And then another  
02:24PM 24 message says: I don't have number. That's from Mr. Gerace.

02:24PM 25 And Mr. Bongiovanni responds 903-1654.

02:24PM 1 Q. Is that the phone number for Lou Selva who -- whose house  
02:24PM 2 Homeland Security later searched?

02:24PM 3 A. Yes.

02:24PM 4 Q. And who you interviewed several times?

02:24PM 5 A. Yes.

02:24PM 6 Q. Please continue. What did Mr. Gerace respond to the  
02:24PM 7 phone number for Lou Selva?

02:24PM 8 A. Mr. Gerace says: Thank you.

02:24PM 9 Mr. Bongiovanni says: No problem, bud.

02:24PM 10 And that's it for the 9th -- or, the 8th, actually. The  
02:24PM 11 time change.

02:24PM 12 Q. Can you repeat what you said there?

02:24PM 13 A. It's actually the 8th with the time change from UTC for  
02:25PM 14 September 8th, I was correcting, I said the 9th.

02:25PM 15 Q. The next message is September 29th, 2017?

02:25PM 16 A. Yes.

02:25PM 17 Q. Can you read that for the jury?

02:25PM 18 A. That's from Mr. Gerace, it says: No love.

02:25PM 19 And Mr. Bongiovanni responds: Sorry, Peter. I've been a  
02:25PM 20 loner most of the summer, but you still love you, dude.

02:25PM 21 Q. And what did Gerace respond?

02:25PM 22 A. Just miss you.

02:25PM 23 Mr. Bongiovanni says: I miss you too, Bro. I've been  
02:25PM 24 just doing nothing.

02:25PM 25 Q. Then it goes forward in time to November 12th, 2017; is

02:25PM 1 that right?

02:25PM 2 A. Yes.

02:25PM 3 Q. There's a series of texts or two texts that day from

02:25PM 4 Mr. Gerace, sort of in the evening?

02:25PM 5 A. Yes. It says: Call me. And then the second one says:

02:25PM 6 Important.

02:25PM 7 Q. The next text is November, November 12th, actually, at

02:26PM 8 about 11 p.m.; is that right? Or is that 10 p.m.?

02:26PM 9 A. 11.

02:26PM 10 Q. 11?

02:26PM 11 A. Yeah. It says: March 23rd to the 27th. We're getting

02:26PM 12 married on the 24th.

02:26PM 13 Q. And what did Mr. Bongiovanni respond?

02:26PM 14 A. Thank you, bro. I will try to make it. We will get out

02:26PM 15 soon. Congratulations. I'm glad you -- you are happy.

02:26PM 16 And Mr. Gerace says: The happiest I've been in 50 years.

02:26PM 17 And then Mr. Gerace says: I'm gonna call you when I book

02:26PM 18 the flights, then let's do dinner in the next couple weeks

02:26PM 19 please.

02:26PM 20 Mr. Bongiovanni says: Sounds good, Bro. See you then.

02:26PM 21 Mr. Gerace says: Just pick the date.

02:26PM 22 Mr. Bongiovanni says: I'll see the wifey's work

02:26PM 23 schedule.

02:26PM 24 Then there's an emoji for Mr. Gerace, and that's the last

02:26PM 25 text for that day.

02:26PM 1 Q. Then if we move forward in time to February 22nd, 2016.

02:27PM 2 Or 2018 is that?

02:27PM 3 **MR. TRIPI:** Can you zoom that in, Ms. Champoux. I  
02:27PM 4 can't see the date. All right. You can zoom out of that.

02:27PM 5 **BY MR. TRIPI:**

02:27PM 6 Q. At the top of the screen, does Mr. Gerace start out a  
02:27PM 7 text on February 22nd?

02:27PM 8 A. He does. He sends two. It says: Happy anniversary,  
02:27PM 9 Joe. And then the next one says: Still waiting to grab  
02:27PM 10 lunch together, LOL.

02:27PM 11 Mr. Bongiovanni responds: Thank you my friend. I still  
02:27PM 12 love you, Bro, even though we haven't gotten to catch up.

02:27PM 13 Mr. Gerace says: Soon brother.

02:27PM 14 And then it jumps to April 1.

02:27PM 15 Q. And what did Mr. Gerace write April 1st, 2018.

02:27PM 16 A. Happy Easter to you and the family.

02:27PM 17 And then another text that says: Funny, I thought of  
02:27PM 18 you. I'm watching Stuart Little. LOL.

02:27PM 19 Q. Does Mr. Bongiovanni respond?

02:27PM 20 A. He does, the same day: I'm Stuart Little. Happy Easter.

02:28PM 21 And then Mr. Gerace says: Vegas.

02:28PM 22 Q. Then Bongiovanni responds with some type of photo?

02:28PM 23 A. Yeah. It's a photo of a mouse in a Giant's jersey.

02:28PM 24 **MR. TRIPI:** Keep scrolling Ms. Champoux, thank you.  
25

02:28PM

1

**BY MR. TRIPI:**

02:28PM

2

Q. Are there some more texts on April 1st?

02:28PM

3

A. Yes. From Mr. Gerace: LOL it's on now. And then a

02:28PM

4

second text: I'm free all week for lunch.

02:28PM

5

Mr. Bongiovanni says: Miss you, Bro.

02:28PM

6

Mr. Gerace responds: Miss you too, Joe. By the way, too

02:28PM

7

long, brother.

02:28PM

8

Q. And then is there a response from Mr. Bongiovanni

02:28PM

9

April 1st, 2018?

02:28PM

10

A. Yes. It says: I know, life takes over. Hope all is

02:28PM

11

well my friend.

02:28PM

12

Mr. Gerace says: Busier than ever. Where do you see my

02:28PM

13

new collection. And then he corrects that to: Wait until

02:28PM

14

you see my new.

02:29PM

15

And then Mr. Bongiovanni says: I'll come see you at

02:29PM

16

Pharaoh's.

02:29PM

17

**MR. TRIPI:** Okay. We can go to Exhibit Number 98

02:29PM

18

Ms. Champoux.

02:29PM

19

**BY MR. TRIPI:**

02:29PM

20

Q. Earlier in the text thread we saw a portion where

02:29PM

21

Mr. Bongiovanni and Mr. Gerace were referencing

02:29PM

22

Mr. Bongiovanni going to Pharaoh's and using the employee

02:29PM

23

entrance; do you remember that?

02:29PM

24

A. Yes.

02:29PM

25

Q. And then here, where we were now on Exhibit 310D, it

1 looks like page 54, we see a reference to Mr. Bongiovanni  
2 saying I'll come see you at Pharaoh's? See that?

3 A. Yes.

4 **MR. TRIPI:** Ms. Champoux, on Exhibit 98, can we zoom  
5 in on the bottom there? And can you highlight the sentence  
6 starting "I responded that?"

7 **BY MR. TRIPI:**

8 Q. All right. So Mr. Bongiovanni in his December 10th, 2018  
9 memo wrote: I responded that, yes, we have been friends for  
10 years, but I never come into your club.

11 Do you see that there Special Agent Ryan?

12 A. I do.

13 Q. Is what Mr. Bongiovanni wrote and represented to his  
14 supervision at the DEA consistent with the text threads that  
15 we've just reviewed?

16 A. No.

17 **MR. TRIPI:** Okay. We can zoom out of that.

18 **BY MR. TRIPI:**

19 Q. Was there a text response to Mr. Bongiovanni's text, I'll  
20 come see you at Pharaoh's, by Mr. Gerace?

21 A. Yes. He says: Yeah, you should. I just bought a  
22 guitar. We will be coming -- will be coming in, so I'm by  
23 Elvis Presley -- oh, coming in. Maybe that's supposed to be  
24 signed by Elvis Presley, Johnny Cash, and Carl Perkins and  
25 Jerry Lee Lewis. Only five in the world.

2 BY MR. TRIPI:

5	A. Yes.
---	---------

6	Q. What does he write?
---	------------------------

11 And then Mr. Bongiovanni says: Wow, I'd love to see it.

12 That awesome.

13 Q. What else did Mr. Gerace write about his collection that  
14 he was growing on the April 1st, 2018?

19           Mr. Gerace says: Just investing some money and some  
20 artworks, too. You will love this stuff. It's all displayed  
21 behind bulletproof glass.

22           And then there's the last text from Mr. Gerace, and that  
23 string is: What day are you free? My father does lunch on  
24 Monday, Tuesdays, Thursdays, and Friday, noon to 4.

25 | Q. And what does Mr. Bongiovanni respond?



02:32PM 1 A. Really cool bro. Great investments. Can't wait to see  
02:32PM 2 it all.

02:32PM 3 **MR. TRIPI:** Okay. Scroll down. We can keep  
02:32PM 4 scrolling.

02:32PM 5 **BY MR. TRIPI:**

02:32PM 6 Q. Are there text messages that seem to be associated with  
02:32PM 7 the various things that Mr. Gerace was just describing as  
02:32PM 8 were part of his collection?

02:32PM 9 A. Yes.

02:33PM 10 **MR. TRIPI:** We can keep scrolling a little bit,  
02:33PM 11 Ms. Champoux.

02:33PM 12 **BY MR. TRIPI:**

02:33PM 13 Q. On April 1st there, it's marked as 8:12 p.m., what does  
02:33PM 14 Mr. Bongiovanni respond to the series of text messages that  
02:33PM 15 we scrolled through a moment ago?

02:33PM 16 A. It says: Ha, ha, better than the stock market.

02:33PM 17 **MR. TRIPI:** Keep scrolling down, Ms. Champoux.

02:33PM 18 **BY MR. TRIPI:**

02:33PM 19 Q. Are we still on April 1st, 2018?

02:33PM 20 A. Yes.

02:33PM 21 Q. A number of texts back and forth?

02:33PM 22 A. Yes.

02:33PM 23 Q. What did Mr. Bongiovanni write to Mr. Gerace a little  
02:33PM 24 while later on April 1st, 2018, what's marked down here as  
02:33PM 25 8/14/54 p.m.?

02:33PM 1 A. It says: Yeah, and people love them because it reminds  
02:33PM 2 them of the childhood and the -- will always pay big dollar  
02:33PM 3 sign then older they get.

02:34PM 4 Q. So, what actual time is that in text message?

02:34PM 5 A. That's right on the cusp of daylight savings. It's  
02:34PM 6 either 3:14 p.m. or 4:14 p.m.

02:34PM 7 Q. Okay.

02:34PM 8 **MR. TRIPI:** You can keep scrolling down,  
02:34PM 9 Ms. Champoux. Let's go a touch slower, but keep scrolling.

02:34PM 10 All right. Stop there.

02:34PM 11 **BY MR. TRIPI:**

02:34PM 12 Q. Do you see a text Mr. Bongiovanni writes about a birthday  
02:34PM 13 drink?

02:34PM 14 A. Yes.

02:34PM 15 Q. Can you read that for the jury?

02:34PM 16 A. It says: Okay. I'll see you for a birthday drink,  
02:34PM 17 buddy. Be safe and keep in touch.

02:34PM 18 Q. Do you go for birthday drinks with your confidential  
02:35PM 19 sources or sources of information?

02:35PM 20 A. No.

02:35PM 21 Q. Let's move forward in time, and take a look at the  
02:35PM 22 April 24th, 2018 text message.

02:35PM 23 **MR. TRIPI:** Ms. Champoux, you had it. Let's go up a  
02:35PM 24 little bit. Right here.

25

02:35PM

1 **BY MR. TRIPI:**

02:35PM

2 Q. Can you read that one for the jury?

02:35PM

3 A. Yes. It's from Mr. Gerace, it says: Am I ever going to

02:35PM

4 see you again? And then a message right behind it that says:

02:35PM

5 My old friend.

02:35PM

6 Q. And what time is that?

02:35PM

7 A. That's April 23rd, at 8 p.m. Roughly.

02:35PM

8 Q. Does Mr. Bongiovanni respond to that?

02:35PM

9 A. He does. He says: Glad you're home safe, buddy. Sorry

02:35PM

10 I'm still working, Bro, miss you.

02:35PM

11 And Mr. Gerace says: That's okay, Bro. I'd love to grab

02:36PM

12 coffee or lunch one day. I haven't seen you in so damn long.

02:36PM

13 Q. And what does Mr. Bongiovanni respond to that?

02:36PM

14 A. He says: I know, bud, too long.

02:36PM

15 **MR. TRIPI:** Keep scrolling down Ms. Champoux.

02:36PM

16 **BY MR. TRIPI:**

02:36PM

17 Q. And then on April 24th, what does Mr. Gerace respond?

02:36PM

18 A. Will you let me know when you get an hour free?

02:36PM

19 And then Mr. Bongiovanni, says: Sure, Bro I don't see

02:36PM

20 anybody anymore.

02:36PM

21 Q. And what did Mr. Gerace respond?

02:36PM

22 A. I know, brother, but life is going by fast.

02:36PM

23 And Mr. Bongiovanni responds: Sure is.

02:36PM

24 **MR. TRIPI:** Stop there.

25

02:36PM

1 **BY MR. TRIPI:**

02:36PM

2 Q. On June 5th, 2018 does it look like Mr. Gerace invites

02:36PM

3 Mr. Bongiovanni to a pig roast at Pharaoh's?

02:36PM

4 A. Yes.

02:36PM

5 Q. Later that month, June 30th, 2018, what does

02:37PM

6 Mr. Bongiovanni -- or, withdrawn. What does Mr. Gerace

02:37PM

7 write?

02:37PM

8 A. He writes: Am I ever going to see you again?

02:37PM

9 And Mr. Bongiovanni responds: Miss you, Bro, I'm going

02:37PM

10 up to Sunset today.

02:37PM

11 **MR. TRIPI:** Okay. Now, Ms. Champoux, can we pull up

02:37PM

12 Exhibit 97 on the right? And keep the text messages in 310D

02:37PM

13 up on the left. Thank you.

02:37PM

14 Okay. Now on Exhibit 310D Ms. Champoux, can you

02:38PM

15 scroll so that the miss you bro, I'm going to Sunset today, is

02:38PM

16 at the top of the screen?

02:38PM

17 Leave it there, thank you.

02:38PM

18 **BY MR. TRIPI:**

02:38PM

19 Q. We looked at Exhibit 97 earlier; is that right?

02:38PM

20 A. Yes.

02:38PM

21 **MR. TRIPI:** Ms. Champoux, can we scroll to the

02:38PM

22 documents that were attached to this looking at page 2 of

02:38PM

23 Exhibit 97. Stop there.

02:38PM

24 **BY MR. TRIPI:**

02:38PM

25 Q. Does it appear that we're at the same point in time now

02:38PM 1 on the text thread?

02:38PM 2 A. Yes.

02:38PM 3 Q. Rough estimate, we've gone through a couple hundred text

02:38PM 4 messages before June 30th, 2016 between Mr. Gerace and

02:38PM 5 Mr. Bongiovanni; is that right?

02:38PM 6 A. Yes.

02:38PM 7 Q. But the first text that Mr. Bongiovanni chose to attach

02:38PM 8 to his memo were beginning on June 30th, 2018; is that right?

02:38PM 9 A. Yes.

02:38PM 10 Q. Okay. So, continuing on the messages on the left, can

02:38PM 11 you read those from Exhibit 310D?

02:38PM 12 A. Yeah. So Mr. Gerace says: Do you have a cottage?

02:39PM 13 And Mr. Bongiovanni responds: No, just going up. Tommy

02:39PM 14 Doc is in town and a couple of Lindsay's friends.

02:39PM 15 **MR. TRIPI:** Ms. Champoux, can we advance Exhibit 97

02:39PM 16 to page 3 please.

02:39PM 17 **BY MR. TRIPI:**

02:39PM 18 Q. And can you continue reading from 310D, Special Agent

02:39PM 19 Ryan?

02:39PM 20 A. Yes. Mr. Gerace says: Cool. Then he says: I --

02:39PM 21 there's a girl in town from Las Vegas staying with me with

02:39PM 22 some other chick that works for me. Let me see what they

02:39PM 23 wanna do.

02:39PM 24 Q. And reading from Exhibit 310D still, what does

02:39PM 25 Mr. Bongiovanni respond?

02:39PM 1 A. I'll be cool for a happy hour any time. I'm off the 4,  
02:39PM 2 5, 6.

02:39PM 3 **MR. TRIPI:** Ms. Champoux, can you scroll 310D to the  
02:39PM 4 next several messages.

02:39PM 5 **BY MR. TRIPI:**

02:39PM 6 Q. Can you continue from where you left off reading from  
02:39PM 7 310D, Mr. Ryan?

02:39PM 8 A. Mr. Bongiovanni says: Okay. We are going in the  
02:40PM 9 afternoon about 1 or 2.

02:40PM 10 **MR. TRIPI:** Can I stop you there, Ms. Champoux.  
02:40PM 11 Scroll Exhibit 97 to page 4 now.

02:40PM 12 **BY MR. TRIPI:**

02:40PM 13 Q. And Special Agent Ryan, can you continue please reading  
02:40PM 14 from 310D?

02:40PM 15 A. Mr. Gerace says: Is there that concert today? Heard  
02:40PM 16 it's going to be a zoo.

02:40PM 17 Mr. Bongiovanni says: Don't know, but I'm sure it will  
02:40PM 18 be busy. We usually go to Cabana Sam.

02:40PM 19 Mr. Gerace says: I heard something on Facebook that  
02:40PM 20 there's a huge concert, and they sold a couple thousand  
02:40PM 21 tickets, and they were saying to get there early to park way  
02:40PM 22 down in 5. And a text that says RT from Mr. Gerace.

02:40PM 23 **MR. TRIPI:** Can we scroll a little Ms. Champoux?

02:40PM 24 **THE WITNESS:** And then a third text with the  
02:40PM 25 number 5.

02:40PM 1 **MR. TRIPI:** Can you move to the next page on Exhibit  
02:40PM 2 97. And can we go to actually page 6 of that document.

02:40PM 3 **BY MR. TRIPI:**

02:40PM 4 Q. All right. Can you pick it up here, Exhibit 310D?

02:40PM 5 A. Mr. Bongiovanni says: Wow. There's an emoji. Then it  
02:41PM 6 says: I don't know anything -- or, I don't know, waiting for  
02:41PM 7 Lindsay. I'll ask her.

02:41PM 8 Mr. Gerace says: Maybe it was this weekend, or I thought  
02:41PM 9 it was this weekend because of the Fourth of July. Maybe I'm  
02:41PM 10 wrong, maybe it's next weekend.

02:41PM 11 Mr. Bongiovanni says --

02:41PM 12 **MR. TRIPI:** Ms. Champoux, can we advance Exhibit 97?

02:41PM 13 Thank you.

02:41PM 14 **BY MR. TRIPI:**

02:41PM 15 Q. We're now on page 7 of that exhibit. And we're on page  
02:41PM 16 71 of Exhibit 310D. Please continue.

02:41PM 17 A. Mr. Bongiovanni says: We are going to see Fortini play  
02:41PM 18 on the 6th, and I know there's a band playing then, but I  
02:41PM 19 don't think Fortini could pack 'em in to Route 5.

02:41PM 20 Mr. Gerace says: Ha, ha, ha, only Joe Bong can do that.

02:41PM 21 And Mr. Bongiovanni says: I'm like the old David Cassidy  
02:41PM 22 now.

02:41PM 23 And Mr. Gerace says: Yeah, you and I feel like Milton  
02:42PM 24 Berle.

02:42PM 25 And Mr. Bongiovanni says: LOL, Uncle Misty, and then

02:42PM 1 Uncle Miltly.

02:42PM 2 **MR. TRIPI:** Can we go to page 7 of Exhibit 97?

02:42PM 3 **BY MR. TRIPI:**

02:42PM 4 Q. And can you continue reading?

02:42PM 5 A. Mr. Gerace says: I'm thinking of taking them down to  
02:42PM 6 RiverWorks. Last time I was there was with you and Lindsay.

02:42PM 7 Another text from Mr. Gerace says: Then we went to Dock  
02:42PM 8 of the Bay. Remember, we had to help Lindsay through the  
02:42PM 9 parking lot.

02:42PM 10 Mr. Bongiovanni says: Yes, I do. An emoji. And then:  
02:42PM 11 Have fun, be safe.

02:42PM 12 Then later Mr. Gerace says: Thanks, brother, I'm home.

02:42PM 13 And Mr. Bongiovanni says: Glad you got home safe.

02:42PM 14 **MR. TRIPI:** Okay. I'd like to hold it up right there  
02:42PM 15 for a moment Ms. Champoux. Can we go -- scroll back to that  
02:42PM 16 last text message he just read, please. Leave it there.

02:42PM 17 And can we pull up Exhibit 98 at page 2, please.

02:43PM 18 On the right I need Exhibit 98 at page 2, please,  
02:43PM 19 thank you. And can we zoom in on the last sentence.

02:43PM 20 **BY MR. TRIPI:**

02:43PM 21 Q. Have there been several hundred text messages that were  
02:43PM 22 unreported between Exhibits 97 and 98?

02:43PM 23 A. Yes.

02:43PM 24 Q. What did Mr. Bongiovanni write to his DEA supervisors  
02:43PM 25 about his reporting of communications?



02:43PM 1 A. I have and will report all contact with Gerace to a DEA  
02:43PM 2 supervisor like I have in the past and will in the future  
02:43PM 3 should unsolicited communication with Gerace occur.

02:44PM 4 Q. Are the text messages and the volume of them that we've  
02:44PM 5 just reviewed inconsistent with that representation he made  
02:44PM 6 to DEA?

02:44PM 7 A. Yes.

02:44PM 8 **MR. TRIPI:** Zoom out of Exhibit 98, Ms. Champoux.

02:44PM 9 We can take that down, actually. I'll stay with  
02:44PM 10 Exhibit 310D now, if you could get us back to where we were.  
02:44PM 11 Keep it there for just a moment.

02:44PM 12 I'd like to turn now to Exhibit 127. Can we zoom in  
02:44PM 13 on that again. Bear with me for just a moment.

02:45PM 14 **BY MR. TRIPI:**

02:45PM 15 Q. After you had acquired Mr. Gerace's text messages that we  
02:45PM 16 were just going through, eventually we're going to get to a  
02:45PM 17 photograph from that June 30th day at the cottage in the  
02:45PM 18 text; is that right?

02:45PM 19 A. From the telephone extraction.

02:45PM 20 Q. From the phone extraction.

02:45PM 21 A. Yes.

02:45PM 22 Q. We haven't gotten there yet, but we're gonna get there,  
02:45PM 23 right?

02:45PM 24 A. Yes.

02:45PM 25 Q. Did you -- were you the one who acquired this particular

1 photo that we see in Government Exhibit 127?

2 A. Yes.

3 Q. And that's from the text thread extraction that we're in  
4 the process of going through that's Exhibit 310D?

5 A. Yes.

6 Q. And then earlier you mentioned you had interviewed  
7 Phlycia Hunt; is it that, right?

8 A. Yes.

9 Q. And briefly, were the circumstances of your initial  
10 interview of Phlycia Hunt that she was arrested by the  
11 Amherst Police Department in April of 2019 and a supervisor  
12 there, JoAnn DiNoto, alerted law enforcement and you  
13 responded and interviewed Ms. Hunt?

14 A. Yes.

15 Q. And did you conduct a relatively lengthy interview of  
16 Ms. Hunt that day?

17 A. Yes.

18 Q. Following that interview of Ms. Hunt, did you engage in  
19 further interviews of her?

20 A. Yes.

21 Q. Eventually, did you use the photograph you acquired from  
22 the text thread that you had reviewed in Mr. Gerace's phone  
23 and present Ms. Hunt with this photograph?

24 A. Yes.

25 Q. Now, had you heard her describe to you what transpired at

02:47PM 1 the cottage that day when you interviewed her?

02:47PM 2 A. On the day that I showed her the photograph, or --

02:47PM 3 Q. Yeah. My question is: Did she explain doing cocaine,  
02:47PM 4 and who she did it with?

02:47PM 5 A. Yes.

02:47PM 6 Q. At that point, did you ask her to circle the people who  
02:47PM 7 she did cocaine with that day other than Peter Gerace?

02:47PM 8 A. Yes.

02:47PM 9 Q. What did she do in response to that?

02:47PM 10 A. She circled the defendant and Tom Doctor.

02:47PM 11 Q. Did you tell her who to circle?

02:47PM 12 A. No.

02:47PM 13 Q. Did you indicate who she should circle?

02:47PM 14 A. No.

02:47PM 15 Q. What did you say to Ms. Hunt when you handed her this  
02:47PM 16 photo?

02:47PM 17 **MR. MacKAY:** Objection, hearsay -- I'm sorry,  
02:47PM 18 withdrawn.

02:47PM 19 **BY MR. TRIPI:**

02:47PM 20 Q. Go ahead.

02:47PM 21 A. I asked her if she remembered being there that day. I  
02:47PM 22 asked her what it was, where she was.

02:47PM 23 I asked her what she remembered about the day, and about  
02:47PM 24 the people in the picture. If she remembered anybody's  
02:48PM 25 names.

1 She said she didn't remember names, but that -- she did  
2 remember who brought cocaine that day.

3 Q. And is that when you asked her -- what did you ask her to  
4 do at that point?

5 A. I asked her who it was. And she said --

6 **MR. MacKAY:** Objection, improper -- hearsay, it's an  
7 improper identification.

8 **MR. TRIPI:** That's not accurate, Your Honor, we can  
9 step up. Can we -- can I please argue it at the bench?

10 **THE COURT:** Come on up.

11 **MR. TRIPI:** Thank you.

12 (Sidebar discussion held on the record.)

13 **MR. TRIPI:** We went -- Mr. -- you will recall that we  
14 went through this exact same objection that was overruled at  
15 the last trial. They've impeached Ms. Hunt on all grounds.  
16 They attacked her credibility on all grounds. This statement  
17 is pursuant to 801(d)(1)(B)(ii). Remember, the rule was  
18 amended, it doesn't have to be a prior statement. You had  
19 done the research last time.

20 **THE COURT:** Okay. So, what are you trying to -- so  
21 it's a prior consistent statement.

22 **MR. TRIPI:** No, it's under 801(d)(1)(B). In 2014,  
23 that rule was amended to include subsection 2, which expands  
24 the purposes for which prior consistent statements may be  
25 offered.

02:49PM

1

**THE COURT:** Right.

02:49PM

2

**MR. TRIPI:** So I guess you're right.

02:49PM

3

**THE COURT:** Right.

02:49PM

4

**MR. TRIPI:** Sorry, I'm just in my mode here, I'm

02:49PM

5

reading.

02:49PM

6

**THE COURT:** That's okay.

02:49PM

7

**MR. TRIPI:** It permitted substantive use of prior

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8

consistent statements to rehabilitate the declarant's

02:49PM

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credibility not only by rebutting charges of recent

02:49PM

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fabrication, but others including improper motive, et cetera.

02:49PM

11

**THE COURT:** And what are you trying to --

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12

**MR. TRIPI:** They impeached her credibility on drug

02:49PM

13

use, everything. So I'm not limited to -- I'm not limited to

02:49PM

14

rehabilitating her just because it doesn't have to be --

02:49PM

15

**THE COURT:** But there's no -- yeah, but there's got

02:50PM

16

to be something that you're rehabilitating. So if they

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17

attacked her credibility because of what she said --

02:50PM

18

**MR. TRIPI:** They attacked her credibility on her

02:50PM

19

ability to perceive, recall, all of it.

02:50PM

20

**THE COURT:** Stop for a second.

02:50PM

21

**MR. TRIPI:** Okay.

02:50PM

22

**THE COURT:** Stop for a second.

02:50PM

23

If they attacked her credibility on her ability to

02:50PM

24

perceive at the time she perceived it, in other words she's

02:50PM

25

drunk at the time that this happened, this doesn't

rehabilitate that at all. This is simply a restatement of something that she said once before. And it's the same thing that she's saying now, and it doesn't --

**MR. TRIPI:** Ann can't hear.

**THE COURT:** -- it doesn't rehabilitate it at all because if she didn't receive it when she initially saw it, then she told the wrong story to this guy, and she told the wrong story to the jury. So that doesn't help you at all. So what are you trying to rehabilitate her, what -- what impeachment are you trying to rehabilitate her from?

**MR. TRIPI:** Judge, they impeached her on the use of alcohol --

**THE COURT:** At the time --

**MR. TRIPI:** -- on her use of drugs --

**THE COURT:** Yeah.

**MR. TRIPI:** -- and her ability to recall now. They went through a lengthy cross-examination of her history of drug, use all of that, and they attacked her on every ground. They attacked her on her perception. They attacked her on her motivations for cooperating. They attacked her across the board.

**THE COURT:** So if it's motivation for cooperating, and if it's -- and if it's memory, I think, think this does rehabilitate it.

**MR. TRIPI:** And I think they did that.

02:51PM 1 **THE COURT:** If it's perception at the time, it  
02:51PM 2 doesn't.

02:51PM 3 **MR. MacKAY:** Also, Judge, it's my recollection  
02:51PM 4 Ms. Hunt, she was able to identify him -- so there's not an  
02:51PM 5 inconsistency. She doesn't -- during her testimony she  
02:51PM 6 doesn't say I can't remember who it is, or it's not true. She  
02:51PM 7 gave the answer to Court on the stand identifying  
02:51PM 8 Mr. Bongiovanni and identifying in court. So there's  
02:51PM 9 nothing -- there's no prior -- I'm not sure we've reached  
02:51PM 10 that.

02:51PM 11 **MR. TRIPI:** A prior statement of identification is  
02:51PM 12 also not hearsay, so I get this in under two grounds.

02:52PM 13 **THE COURT:** You've already gotten in the circled --  
02:52PM 14 the two of them circled, and there's no objection to that. So  
02:52PM 15 that's in already. That's the identification, and that's in.

02:52PM 16 **MR. TRIPI:** There was a whole cross-examination --

02:52PM 17 **THE COURT:** Okay. Look it. I'm not remembering the  
02:52PM 18 cross-examination as well as you are, Mr. Tripi, so we can  
02:52PM 19 take a break, and we can have Ann go back and take a look at  
02:52PM 20 the cross-examination.

02:52PM 21 **MR. TRIPI:** Yeah, if I could just try to jog your  
02:52PM 22 memory a little bit, this exact scenario played out, we argued  
02:52PM 23 it basically exactly the same way. You initially sustained  
02:52PM 24 the objection when I tried to argue that it was a prior  
02:52PM 25 statement of identification. I understand they didn't object

1 to that part of it this time. But then further when we went  
2 to get this portion of the testimony in, you ultimately  
3 admitted it under 801(d)(1)(B)(ii) because we made the similar  
4 argument here that they attacked her credibility across the  
5 board. It wasn't just limited to ability to perceive at that  
6 time --

7 **THE COURT:** Yeah, I'm gonna --

8 **MR. TRIPI:** -- and her ability to recall --

9 **THE COURT:** I'm going to have to take a look at the  
10 rule, and I'm going to have to take a look at the  
11 cross-examination.

12 Go ahead.

13 **MR. SINGER:** Just one thing, Judge, if it was  
14 admitted last time as a prior consistent statement, then with  
15 respect to that rule, as you know, to admit a prior consistent  
16 statement it needs to exist for the motive to fabricate  
17 occurs. In this situation, Ms. Hunt came in to Agent Ryan  
18 after the arrest.

19 **THE COURT:** Mr. Tripi is saying that rule has been  
20 changed.

21 **MR. TRIPI:** Yeah, he's under (ii)(1), I'm under  
22 (ii)(2). So we're arguing two different things here.

23 **THE COURT:** We're going to take a break. We're going  
24 to take a break now. We're going to let the jury go, and  
25 we'll talk.



02:53PM 1 **MR. TRIPI:** I appreciate that.

02:53PM 2 (Sidebar discussion ended.)

02:53PM 3 **THE COURT:** Okay. Folks, we've got a matter that  
02:53PM 4 needs some attention outside your presence, so we are going to  
02:53PM 5 take your afternoon break. It may be a little longer than  
02:53PM 6 usual.

02:53PM 7 Please remember my instructions about not  
02:53PM 8 communicating about the case even with each other and not  
02:53PM 9 making up your mind.

02:53PM 10 We'll see you back here as soon as we're done.

02:54PM 11 (Jury excused at 2:54 p.m.)

02:54PM 12 **THE COURT:** Okay. Give me the rule again Mr. Tripi.

02:54PM 13 **MR. TRIPI:** Yeah, Judge, 801(d)(1)(B)(ii), the  
02:54PM 14 declarant --

02:54PM 15 **THE COURT:** Let me find it. Let me find it.

02:54PM 16 **MR. TRIPI:** 801(d)(1)(B)(ii), statements that are not  
02:54PM 17 hearsay needs the following conditions. The declarant  
02:54PM 18 testifies, is subject to cross-examination about a prior  
02:54PM 19 statement and the statement is consistent with the declarant's  
02:55PM 20 testimony and is offered to rehabilitate the declarant's  
02:55PM 21 credibility as a witness when attacked on another ground.

02:55PM 22 So this is different than express or implied recent  
02:55PM 23 fabrication which is (i).

02:55PM 24 **THE COURT:** Right.

02:55PM 25 **MR. TRIPI:** Under the rule, these statements are

1 substantive evidence. The prior statement is consistent with  
2 the testimony given on the stand, and if the opposite party  
3 opens the door, which they did, here they didn't just  
4 cross-examine her on her alcohol and drug use at the time, but  
5 they also crossed Ms. Hunt on her recent drug use in April or  
6 May of this year.

7 So, prior to -- between the two trials, you recall  
8 her testimony, she had a slipup in her drug usage. So that's  
9 attacking her credibility on another ground.

10 And, so, that is, I believe, brings us within the  
11 ambit of the rule.

12 **THE COURT:** Yeah, why isn't that -- so if you attack  
13 her credibility on her current drug use, why wouldn't the fact  
14 that she gave this information to Agent Ryan earlier  
15 rehabilitate that?

16 You -- the word "rehabilitate" can't be read as  
17 broadly as you're suggesting, Mr. Tripi. It can't be read to  
18 simply allow a witness to repeat what the witness said to an  
19 agent before. There's got to be some reason.

20 Now, Mr. Singer says that under (i), it can be  
21 brought in to rehabilitate based on a prior inconsistent  
22 statement if the consistent statement arose before the witness  
23 had a reason to fabricate it. And that's right. And what  
24 you're saying is that (i) --

25 **MR. TRIPI:** Double I.

02:56PM 1 **THE COURT:** -- (ii) expands that, so that there are  
02:56PM 2 other ways that prior consistent statements can rehabilitate.

02:57PM 3 And I agree with that, because obviously that -- that  
02:57PM 4 (ii) makes it broader. But it still has to rehabilitate. It  
02:57PM 5 can't simply be repeat.

02:57PM 6 **MR. TRIPI:** Yeah. And part of it under U.S. versus  
02:57PM 7 Purcell, which is a 2nd Circuit case from 2020 speaks to rebut  
02:57PM 8 a charge of faulty memory, which is what they attacked her on.

02:57PM 9 **MR. COOPER:** And specifically from the cross this  
02:57PM 10 time, Judge, the cross-examination was about what color sheets  
02:57PM 11 were on the bed. Well, she's testifying in this trial in 2024  
02:57PM 12 six years after the incident occurred. When you choose to  
02:57PM 13 make that cross-examination about what color sheets were on  
02:57PM 14 the bed, we get to say, hey, in 2019 when her memory was five  
02:57PM 15 years clearer, she circled these people in the photo. That's  
02:57PM 16 how it's responsive.

02:57PM 17 **THE COURT:** You've already got the circles. You've  
02:57PM 18 already got the circled. So what else is it that you want to  
02:57PM 19 get now?

02:57PM 20 **MR. TRIPI:** The context of why she circled them, who  
02:57PM 21 were the people using the cocaine.

02:57PM 22 **THE COURT:** Well, isn't that already in? Isn't that  
02:57PM 23 what she just said?

02:58PM 24 **MR. TRIPI:** I think -- I think this all might be -- I  
02:58PM 25 was trying to clarify the testimony that was already in, and

then that drew an objection.

**THE COURT:** Hang on. At that point, did you ask her to circle the people that she did cocaine with that day other than Peter Gerace.

Answer: Yes.

Question: What did she do in response to that?

Answer: She circled the defendant and Tom Doctor.

Question: Did you tell her who to circle?

Answer: No.

Question: Did you indicate who she should circle?

Answer: No.

What did you say to Ms. Hunt when you handed her this photo?

Objection, hearsay, withdrawn.

Mr. Tripi: Go ahead.

Answer: I asked her if she remembered being there that day. I asked her what it was, where she was. I asked her what she remembered about that day, and about the people in the picture, if she remembered anybody's names. She said she didn't remember names, but she did remember who brought the cocaine that day.

And when you asked her what did you say -- what did you ask her to do at that point?

I asked her who it was, and she said --

And that's where the objection came in, and that's

02:59PM 1 when we came up.

02:59PM 2 So she's already identified without objection the  
02:59PM 3 defendant and Mr. Doctor.

02:59PM 4 **MR. TRIPI:** Okay. I'll move on then. I think what  
02:59PM 5 you read --

02:59PM 6 **THE COURT:** Great. Okay. Because I -- if there's  
02:59PM 7 something else that you think --

02:59PM 8 **MR. TRIPI:** No. I think it was in, I was circling  
02:59PM 9 back a second time, so maybe there's an asked and answered  
02:59PM 10 objection there would be sustained.

02:59PM 11 **MR. MacKAY:** Yes, Judge, and just for clarity, the  
02:59PM 12 decision not to necessarily make an objection right up front  
03:00PM 13 here in this instance more has to deal with the flow of how  
03:00PM 14 things are coming out, and whether or not to object like we  
03:00PM 15 did last time. I think the objection here was lodged, like,  
03:00PM 16 is this going to go further and repeat more of the  
03:00PM 17 conversation. That's where it's meant to cut off. And it  
03:00PM 18 sounds like we're not going to go there anyways.

03:00PM 19 **THE COURT:** I get it. But again, I -- I'm not going  
03:00PM 20 to raise objections myself. If you had an objection to the  
03:00PM 21 identification, you should have made it then, you didn't.  
03:00PM 22 That came in.

03:00PM 23 But I'm not inclined to let anything in further  
03:00PM 24 unless there is something that her prior discussion with Agent  
03:00PM 25 Ryan rehabilitates. That's all I'm saying. And I don't see

03:00PM 1 anything right now.

03:00PM 2 So that's where we are. You decide what you want to  
03:00PM 3 do. I want to take a break.

03:00PM 4 **MR. TRIPI:** I think that sometimes when you're up  
03:00PM 5 there, Judge, you don't have a -- when you read it back, I  
03:00PM 6 covered what needed to be covered.

03:00PM 7 **THE COURT:** Okay. Great. Thank you.

03:00PM 8 **THE CLERK:** All rise.

03:00PM 9 **MR. COOPER:** What time do you want us back, Judge.

03:00PM 10 **THE COURT:** 3:15.

03:01PM 11 **MR. COOPER:** Okay. Thank you.

03:01PM 12 (Off the record at 3:01 p.m.)

03:17PM 13 (Back on the record at 3:17 p.m.)

03:17PM 14 (Jury not present.)

03:17PM 15 **THE CLERK:** All rise.

03:17PM 16 **THE COURT:** Please be seated.

03:17PM 17 **THE CLERK:** We are back on the record for the  
03:17PM 18 continuation of the jury trial in case number 19-cr-227,  
03:17PM 19 United States of America versus Joseph Bongiovanni.

03:17PM 20 All counsel and parties are present.

03:17PM 21 **THE COURT:** Okay. Ready to go.

03:17PM 22 **MR. TRIPI:** Yeah, we're just getting the witness up.

03:17PM 23 **THE COURT:** Anything?

03:17PM 24 **MR. MacKAY:** No, Your Honor.

03:18PM 25 **THE COURT:** Okay. So let's bring the jury back in,

1 please.

2 (Witness and Jury seated at 3:19 p.m.)

3 **THE COURT:** Okay. The record will reflect that all  
4 our jurors are present, again.

5 I remind the witness that he's still under oath.

6 The objection to the last question is sustained. And  
7 you can ask another question, Mr. Tripi.

8 **MR. TRIPI:** Thank you, Your Honor.

9 Ms. Champoux, can you -- I think we had Exhibit 127  
10 up on the screen.

11 **BY MR. TRIPI:**

12 Q. Special Agent Ryan, with respect to the interview when  
13 Ms. Hunt circled Mr. Bongiovanni and Mr. Doctor as you just  
14 testified, do you remember that interview was subsequent to  
15 you obtaining the extraction and the text messages from  
16 Mr. Gerace's phone; is that right?

17 A. Yes.

18 Q. Do you remember when that interview was specifically?

19 A. I don't recall the specific date, no.

20 Q. I'm going to show you a document to see if I can refresh  
21 your recollection as to a specific date.

22 **MR. TRIPI:** Counsel, I'm going to be showing 3583I,  
23 and I'm going to direct the witness's attention to the bottom  
24 of page 2 going on to page 3.

25

03:21PM

1

**BY MR. TRIPI:**

03:21PM

2

Q. If you can look at that.

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3

Did Exhibit 3583I refresh your recollection as to the

03:21PM

4

date that you interviewed Ms. Hunt and showed her this

03:21PM

5

photograph?

03:21PM

6

A. Yes.

03:21PM

7

Q. What was that date?

03:21PM

8

A. October 16th, 2019.

03:21PM

9

Q. 2019?

03:21PM

10

A. Yes.

03:21PM

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Q. That was a little over a year after the text exchange

03:21PM

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that we just saw about the meeting at the cottage at Sunset

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13

Bay, correct?

03:21PM

14

A. Yes.

03:21PM

15

Q. Your interview was closer in time that event?

03:22PM

16

Your interview of Ms. Hunt was closer in time to that

03:22PM

17

event?

03:22PM

18

A. Than today, yes.

03:22PM

19

Q. Yes. Now, during that interview were you asking her

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questions like what color were the sheets on the bed? Or

03:22PM

21

were you asking her questions about who did cocaine with her?

03:22PM

22

A. The latter.

03:22PM

23

Q. So you didn't ask about sheets on the bed?

03:22PM

24

A. No.

03:22PM

25

Q. You didn't ask her about the color or the type of vehicle



03:22PM 1 she arrived in?

03:22PM 2 A. No.

03:22PM 3 Q. Were those less important details to ask about?

03:22PM 4 A. Yes.

03:22PM 5 **MR. TRIPI:** Okay. Ms. Champoux, we can bring down

03:22PM 6 Exhibit 127, and let's go back to Exhibit 310D, please. I'd

03:22PM 7 like to keep working through that.

03:22PM 8 And let's go back to where we left off, please.

03:22PM 9 **BY MR. TRIPI:**

03:22PM 10 Q. All right. We had just finished the text thread

03:22PM 11 June 30th, 2018 where Mr. Gerace writes: Thanks, brother,

03:22PM 12 I'm home.

03:22PM 13 Looks like there's another text message the following

03:23PM 14 morning, is that right, July 1st, 2018?

03:23PM 15 A. Yes.

03:23PM 16 Q. And what does Mr. Bongiovanni write?

03:23PM 17 A. Glad you got home safe.

03:23PM 18 Q. Okay.

03:23PM 19 **MR. TRIPI:** And can we scroll down Ms. Champoux?

03:23PM 20 **BY MR. TRIPI:**

03:23PM 21 Q. And is there a text July 2nd from Mr. Gerace?

03:23PM 22 A. There are several on July 2nd.

03:23PM 23 Q. Can you go through the July 2nd text? And skip over that

03:23PM 24 same Pharaoh's one we've been looking at. We can let the

03:23PM 25 jury read that.

03:23PM 1 A. The first one says: Golf money due this week.

03:23PM 2 The second one says: 25th.

03:23PM 3 Then there's the advertisement text for the Pharaoh's  
03:23PM 4 golf outing. And then another advertisement text for the  
03:23PM 5 Pharaoh's golf outing.

03:23PM 6 Q. And so those texts about the golf outing were July 2nd,  
03:23PM 7 2018; is that right?

03:23PM 8 A. Yes.

03:23PM 9 Q. Now that month, that same month, July, July 20th, 2018 is  
03:23PM 10 when Ron Serio proffered; is that right?

03:23PM 11 A. Yes.

03:23PM 12 Q. And August 1st, 2018, is when, on or about the day that  
03:24PM 13 Special Agent Casullo reported the race-related statements  
03:24PM 14 from Mr. Bongiovanni to his management, correct?

03:24PM 15 A. Yes.

03:24PM 16 Q. And so we see a gap here from July 2nd to October 23rd;  
03:24PM 17 do you see that?

03:24PM 18 A. I do.

03:24PM 19 Q. On October 23rd, 2018, what does Mr. Bongiovanni write?

03:24PM 20 A. It's Mr. Gerace.

03:24PM 21 Q. I'm sorry, what does Mr. Gerace write to Mr. Bongiovanni?  
03:24PM 22 Thank you.

03:24PM 23 A. He says: Are you alive? Just got a new phone? Or, are  
03:24PM 24 you alive? Just get a new phone? Did you move out of town?  
03:24PM 25 What the fuck?

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1                   **MR. TRIPI:** And can you continue to scroll down a  
2 little bit, Ms. Champoux?  
3                   **BY MR. TRIPI:**  
4 Q. Is there some text there, the 27th of October?  
5 A. There's one from the 27th of October from Mr. Gerace, it  
6 says: Is there a reason why you're not talking to me?  
7 Q. And Mr. Bongiovanni responds?  
8 A. He does, on October 27th, he says: Dude, sorry, been  
9 working midnights, and I've been sleeping until 3 or 4,  
10 sorry, my bad.  
11 Q. And then does Mr. Gerace respond?  
12 A. Yes. On the same day he says: Okay. I'm just making  
13 sure, brother.  
14 Q. And what does Mr. Bongiovanni write?  
15 A. On the same day: Hope all is well. You're not the only  
16 one mad at me. LOL.  
17 Q. And what did Mr. Gerace respond?  
18 A. I'm not mad, brother, just keep in touch.  
19 Q. What happened next?  
20 A. There's a photograph that didn't get extracted.  
21 Q. And then is there another photograph after that?  
22 A. Yes. A photograph of -- looks like a dinner party.  
23 Q. This is October, this text of the photo is October 27th,  
24 2018; is that right?  
25 A. Yes.

03:25PM 1 Q. So it's in that same series.

03:25PM 2 **MR. TRIPI:** Can we zoom in on the photo,  
03:25PM 3 Ms. Champoux?

03:25PM 4 **BY MR. TRIPI:**

03:25PM 5 Q. Do you see Peter Gerace in the photo?

03:25PM 6 A. Yes, the far end of the table on the left side as I'm  
03:25PM 7 looking at it.

03:25PM 8 Q. Do you also see that same actor from before, Lillo  
03:26PM 9 Brancato?

03:26PM 10 A. He's across the table from Mr. Gerace.

03:26PM 11 Q. Can you circle him?

03:26PM 12 Do you also see someone who's sort of like a famous  
03:26PM 13 boxing trainer in the photograph?

03:26PM 14 A. Freddie Roach, right here.

03:26PM 15 Q. Can you circle Mr. Gerace for the jury?

03:26PM 16 **MR. TRIPI:** Okay. May the record reflect the witness  
03:26PM 17 has placed three circles on this photo, two on the right-hand  
03:26PM 18 side, upper right-hand corner of the photo, one on sort of the  
03:26PM 19 middle of the photograph, far end of the table.

03:26PM 20 **THE COURT:** Yeah. So, just so the record's clear, on  
03:26PM 21 the left side of the photograph, the person not at the head of  
03:26PM 22 the table but next to that person at the far end of the table  
03:26PM 23 was circled.

03:26PM 24 And then on the right side of the table, not the  
03:26PM 25 person at the head of the table but the person to that

person's left, and then the person sitting the third seat in on the same side is circled.

**MR. TRIPI:** Thank you, Your Honor. That was a better description. Appreciate it.

We can clear that now. And we can get back to the text thread.

**BY MR. TRIPI:**

Q. Now those photos -- or, withdrawn.

Those text messages to include that photo were attached to Exhibit 98, that memo that were Bongiovanni sent; is that right?

A. Yes.

**MR. TRIPI:** Can we keep scrolling down.

**BY MR. TRIPI:**

Q. And now is there another text from Mr. Gerace that picks up December 7th, 2018?

A. Yes. It says: Call me on the phone they just called your number.

The next text from Mr. Gerace on the same date says: ASAP.

And then there's another text from Mr. Gerace that says: Hey, brother, I know we haven't talked in a while, but you'll always be one of my best friends, and you know I always have your back.

**MR. TRIPI:** And Ms. Champoux, can we pull up

Government Exhibit 30A, please?

I'm going to direct your attention to Exhibit 30A at paragraph number 2.

**BY MR. TRIPI:**

Q. First of all, is this a DEA-6 Mr. Bongiovanni wrote?

A. Yes.

Q. And he wrote that on November 6th, 2009?

A. Yes.

**MR. TRIPI:** Ms. Champoux, under paragraph 2, could you highlight the first two sentences, please?

**BY MR. TRIPI:**

Q. Can you read what Mr. Bongiovanni wrote on November 6th 2009, to his Group Supervisor Dale Kasprzyk regarding his description of who Peter Gerace was?

A. On November 1st, 2009, S.A. Joseph Bongiovanni received a telephone call from Peter G. Gerace.

Gerace has acted as a confidential source, and has been able to provide information regarding individuals in this case file and other narcotics investigations in the past.

Q. Now, going back to Exhibit 310D, December 7th, 2018, how did Mr. Gerace describe Mr. Bongiovanni in that, that text that's 11:07 p.m. UTC time?

A. You'll always be one of my best friends.

Q. And the defendant's response, what did he say about their friendship?

1 A. We have been friends for 25 years, bud, all good.

2 Q. In 30A, anywhere in that document, does Mr. Bongiovanni  
3 write that he has been friends with Gerace for 25 years?

4 A. No.

5 Q. Does any -- does he write anywhere that Gerace is one of  
6 his best friends?

7 A. No.

8 Q. How does he describe Gerace to his boss?

9 A. As a confidential source who's provided reliable  
10 information in the past.

11 Q. Who has provided information regarding individuals?

12 A. Yes.

13 **MR. TRIPI:** We can pull down Exhibit Number 30A. If  
14 we can continue with 310D where we were, which is page 76.

15 **BY MR. TRIPI:**

16 Q. After Mr. Gerace wrote: You mean 36 years; did he send  
17 another photo?

18 A. Yes.

19 **MR. TRIPI:** Can you zoom in on that text message,  
20 Ms. Champoux? The whole text message, if you can capture the  
21 header of it, too.

22 **BY MR. TRIPI:**

23 Q. Is that a text with a photograph Mr. Gerace sent on  
24 December 19th, 2018?

25 A. Yes.

03:30PM 1 Q. So that's a few days before Christmas?

03:31PM 2 A. Yes.

03:31PM 3 Q. Is that the same photograph that we later used with when  
03:31PM 4 he interviewed Ms. Hunt which we've seen in evidence as  
03:31PM 5 Exhibit 127?

03:31PM 6 A. Yes.

03:31PM 7 **MR. TRIPI:** And we can zoom out of that. Thank you.

03:31PM 8 **BY MR. TRIPI:**

03:31PM 9 Q. Now by that point in time, Mr. Bongiovanni was writing he  
03:31PM 10 had begun writing the memos that we looked at, correct?

03:31PM 11 A. Yes.

03:31PM 12 Q. And then are there a couple more text messages that don't  
03:31PM 13 get responded to?

03:31PM 14 A. Yes. Looks like they start on February 2nd, 2019.

03:31PM 15 Q. As you understand it, Mr. Bongiovanni -- his last day at  
03:31PM 16 the DEA using that DEA phone was February 1st, 2019, correct?

03:31PM 17 A. Correct.

03:31PM 18 Q. So Mr. Gerace is essentially after that date texting an  
03:31PM 19 old phone for Mr. Bongiovanni after February 1st?

03:31PM 20 A. Correct.

03:32PM 21 **MR. TRIPI:** We can close out of 310D, Ms. Champoux.

03:32PM 22 **BY MR. TRIPI:**

03:32PM 23 Q. As part of the extraction that was Exhibit 310, Special  
03:32PM 24 Agent Donoghue was also able to extract contacts that were in  
03:32PM 25 Mr. Gerace's phone; is that right?



03:32PM 1 A. Yes.

03:32PM 2 Q. I'm going to hand you up 310AT. Look through that  
03:32PM 3 briefly.

03:32PM 4 Do you recognize Exhibit 310AT?

03:32PM 5 A. Yes.

03:32PM 6 Q. Is that a portion of the contacts that were extracted for  
03:33PM 7 Mr. Gerace's iPhone X consistent with the complete extraction  
03:33PM 8 that is Exhibit 310?

03:33PM 9 A. Yes.

03:33PM 10 Q. Is it accurate from the original extraction?

03:33PM 11 A. Yes.

03:33PM 12 **MR. TRIPI:** The government offers Exhibit 310AT,  
03:33PM 13 which is list of contacts, Your Honor.

03:33PM 14 **MR. MacKAY:** Joe, can I just see this? My 310AT is  
03:33PM 15 not -- I'm not going to have an objection, Judge, it's just a  
03:33PM 16 mishmash with exhibit numbers.

03:33PM 17 **THE COURT:** But there's no objection?

03:33PM 18 **MR. MacKAY:** No objection.

03:33PM 19 **THE COURT:** It's received without objection.

03:33PM 20 **(GOV Exhibit 310AT was received in evidence.)**

03:33PM 21 **MR. MacKAY:** I think we're good, Judge. We have the  
03:33PM 22 right copy here on one of our computers.

03:34PM 23 **BY MR. TRIPI:**

03:34PM 24 Q. I'd like to go through some of these contacts. I'm not  
03:34PM 25 going to go through all of them, though. Just bear with me

03:34PM 1 for a moment.

03:34PM 2 So we're looking at contacts in Mr. Gerace's phone.

03:34PM 3 **MR. TRIPI:** Ms. Champoux, can you bring that up?

03:34PM 4 And can you advance to page 4 of this exhibit?

03:34PM 5 **BY MR. TRIPI:**

03:34PM 6 Q. Under record number 2, do you see a contact in

03:34PM 7 Mr. Gerace's phone with a phone number for Jeff Anzalone?

03:34PM 8 A. Yes.

03:34PM 9 Q. Is Mr. Anzalone also someone who HSI investigated and

03:34PM 10 ultimately charged with drug trafficking?

03:34PM 11 A. Yes.

03:34PM 12 Q. Did he ultimately plead guilty in his case and cooperate

03:34PM 13 in this investigation?

03:34PM 14 A. Yes, he did.

03:34PM 15 Q. Record number 3, do you see an entry in Mr. Gerace's

03:34PM 16 phone, a contact in the phone for Wayne Anderson?

03:34PM 17 A. Yes.

03:34PM 18 **MR. TRIPI:** Let's go to page number 5, please,

03:35PM 19 Ms. Champoux.

03:35PM 20 **BY MR. TRIPI:**

03:35PM 21 Q. There's a record number 4. Do you see a contact for an

03:35PM 22 individual with a phone number for Joseph -- sorry, Joe

03:35PM 23 Bella?

03:35PM 24 A. Yes.

03:35PM 25 Q. Is there also a Facebook contact for Mr. Bella?

03:35PM

1 A. Yes.

03:35PM

2 Q. Okay.

03:35PM

3 **MR. TRIPI:** Can we go to page number 6.

03:35PM

4 **BY MR. TRIPI:**

03:35PM

5 Q. Record number 7. Is there a contact for an individual  
6 named Frank Burkhardt with a phone number?

03:35PM

7 A. Yes.

03:35PM

8 Q. Do you know that individual to be associated with a  
9 tattoo parlor called Hard Core Tattoo on Elmwood?

03:35PM

10 A. Yes.

03:35PM

11 Q. Do you see a contact for Tony Casullo?

03:35PM

12 A. Yes.

03:35PM

13 Q. And is that the DEA special agent?

03:35PM

14 A. Yes. I think so. Looks like it's just for his book.

03:35PM

15 Q. And did Mr. Casullo explain to you, we'll have him  
16 describe that himself, but did he explain to you why

03:36PM

17 Mr. Gerace had his phone number?

03:36PM

18 A. Oh, there is his phone number. I don't recall.

03:36PM

19 Q. Okay. Let's move on to record number 10 on page 7.

03:36PM

20 Do you see an entry for a Jessica, Charm?

03:36PM

21 A. Yes.

03:36PM

22 Q. Phone number?

03:36PM

23 A. Yes.

03:36PM

24 Q. Do you know that to be a reference to Jessica Leyland?

03:36PM

25 A. Yes.

03:36PM 1 Q. Let's go to record number 13. It begins on the bottom of  
03:36PM 2 page 7 and continues to page 8. Do you see a record in  
03:36PM 3 Mr. Gerace's phone for Tommy Doctor?

03:36PM 4 A. Yes.

03:36PM 5 Q. Again, is that one of the people who were circled in  
03:36PM 6 Exhibit 127?

03:36PM 7 A. Yes.

03:36PM 8 Q. Let's go to record number 15, page number 8. Do you see  
03:37PM 9 an entry for Eric Fox with a phone number?

03:37PM 10 A. Yes.

03:37PM 11 Q. Let's go to page number 9, it's going to be record 16.  
03:37PM 12 Do you see an entry for a Pauly, Hot Dog, with a phone  
03:37PM 13 number?

03:37PM 14 A. Yes.

03:37PM 15 **MR. TRIPI:** Ms. Champoux, can we bring up Government  
03:37PM 16 Exhibit 8A next to this. And can you do me a favor, can you  
03:37PM 17 control F and search for the name Francoforte? Can you search  
03:37PM 18 for it first then. Thanks. So we're going to bring down for  
03:38PM 19 a moment 310AT and let her do that.

03:38PM 20 Okay. Can you show Exhibit 8A. Let's scroll down a  
03:38PM 21 little bit more on this page.

03:38PM 22 **BY MR. TRIPI:**

03:38PM 23 Q. We're at Exhibit 8A at page 347. Do you see a subscriber  
03:38PM 24 record in file C2.

03:38PM 25 A. Yes.

03:38PM 1 Q. Do you know that person's name to be Hot Dog?

03:38PM 2 A. Yes.

03:38PM 3 Q. Can you scroll down a little bit. Do you see a phone

03:38PM 4 number there, 716-866-2687?

03:38PM 5 A. Yes.

03:38PM 6 Q. Is that the same number in Mr. Gerace's phone?

03:38PM 7 A. Can I see the contact again?

03:39PM 8 **MR. TRIPI:** Can we go back to 310AT Ms. Champoux.

03:39PM 9 We're at record number 16. Right there. Can you

03:39PM 10 zoom in on the phone number.

03:39PM 11 **THE WITNESS:** Yes. It's the same.

03:39PM 12 **BY MR. TRIPI:**

03:39PM 13 Q. The same phone number that's in the Wayne Anderson file?

03:39PM 14 A. Yes.

03:39PM 15 **MR. TRIPI:** We can zoom out of that file, please.

03:39PM 16 Look at record number 18. Can we zoom in on that.

03:39PM 17 **BY MR. TRIPI:**

03:39PM 18 Q. Do you see an entry in Mr. Gerace's phone for a Marcus?

03:39PM 19 A. Yes.

03:39PM 20 Q. With a phone number?

03:39PM 21 A. Yes.

03:39PM 22 Q. Do you even see a Facebook address that references Marcus

03:39PM 23 Black?

03:39PM 24 A. Yes.

03:40PM 25 **MR. TRIPI:** Let's go to Exhibit 20, zoom in on that.

03:40PM

1

**BY MR. TRIPI:**

03:40PM

2

Q. Do you see a reference entry for a Mike Masecchia?

03:40PM

3

A. Yes.

03:40PM

4

Q. With a phone number?

03:40PM

5

A. Yes.

03:40PM

6

Q. And phone number 716-812-0664?

03:40PM

7

A. Yes.

03:40PM

8

**MR. TRIPI:** Ms. Champoux, can we go back to

03:40PM

9

Exhibit 8A, please. And can you search the last name

03:40PM

10

Masecchia. Can we scroll down?

03:40PM

11

**BY MR. TRIPI:**

03:40PM

12

Q. Do you see that account contact number, 716-812-8664?

03:40PM

13

A. Yes.

03:40PM

14

Q. Is that the same number that's in Mr. Gerace's phone?

03:40PM

15

A. Yes.

03:40PM

16

Q. Let me get what page that was. For the record, that was

03:40PM

17

Exhibit 8A at page 349 that we just displayed for the phone

03:41PM

18

number 716-812-0664 related to Mike Masecchia.

03:41PM

19

**MR. TRIPI:** Let's go back to Exhibit 310AT, please.

03:41PM

20

Thank you. Record number 21, can we zoom in on that.

03:41PM

21

**BY MR. TRIPI:**

03:41PM

22

Q. Do you see an entry with a phone number for a Sue

03:41PM

23

Michalski?

03:41PM

24

A. Yes.

03:41PM

25

Q. Do you know her to be the wife of the former New York

1 State Supreme Court Judge John Michalski?

2 A. Yes.

3 **MR. TRIPI:** Let's go down to record number 22,

4 please. Zoom in on that.

5 **BY MR. TRIPI:**

6 Q. Do you see an entry for Kim Mecca?

7 A. Yes.

8 Q. Do you know her to be the former girlfriend of Lou Selva?

9 A. Yes.

10 Q. Is there a phone number for her there?

11 A. 716-870-8083.

12 Q. Let's go to record 23.

13 Do you see an entry for a Frank Parisi with a phone  
14 number there?

15 A. Yes.

16 Q. Let's go to record 25.

17 Do you see an entry for a Joe Palmieri in Mr. Gerace's  
18 contacts?

19 A. Yes.

20 Q. Do you know who Joe Palmieri is?

21 A. Yes.

22 Q. Who is that?

23 A. He's a Town of Tonawanda detective and task force officer  
24 at the DEA office in D-57.

25 Q. Was he someone who was frequently partnered with

03:42PM 1 Mr. Bongiovanni?

03:42PM 2 A. Yes, he was.

03:42PM 3 **MR. TRIPI:** Ms. Champoux, would you take that down  
03:42PM 4 for a moment. I'd like to go back to Exhibit 310AT. Or, I'm  
03:42PM 5 sorry, I misspoke, Exhibit 8A. And can I search the word Elm?  
03:43PM 6 E-L-M. Go ahead. Scroll through one for a second. Keep  
03:43PM 7 going, please.

03:43PM 8 Yeah, Elmview. That's the word I want, sorry.

03:43PM 9 Keep going, I'm looking for Elmview on a Buffalo  
03:43PM 10 police report. So I need you to keep going.

03:43PM 11 Keep going. I'll tell you when to stop. All right.

03:43PM 12 **BY MR. TRIPI:**

03:43PM 13 Q. All right. Do you see Buffalo Police Department booking  
03:43PM 14 data sheet for Damien Abbate?

03:44PM 15 A. Yes.

03:44PM 16 Q. Does it -- is it -- we're in file number C2-13-0026?

03:44PM 17 A. Yes.

03:44PM 18 Q. This is page 74 of Exhibit 8A. Do you see who printed  
03:44PM 19 that report on November 28th, 2012?

03:44PM 20 A. Joseph Palmieri.

03:44PM 21 Q. And that's someone who's working with Special Agent  
03:44PM 22 Bongiovanni?

03:44PM 23 A. Yes.

03:44PM 24 **MR. TRIPI:** Ms. Champoux, can we scroll down the next  
03:44PM 25 page? The one after that. Okay. Stop there.



03:44PM

1 **BY MR. TRIPI:**

03:44PM

2 Q. We're at page 77 of Exhibit 8A. Is this the arrest,

03:44PM

3 local police booking data sheet for Wayne Anderson?

03:44PM

4 A. Yes.

03:44PM

5 Q. And do you see who printed that booking data sheet for

03:45PM

6 the file?

03:45PM

7 A. Joseph Palmieri.

03:45PM

8 Q. And do you see a Post-It note with State Police Officer

03:45PM

9 Mike O'Rourke's phone number photocopied onto that page?

03:45PM

10 A. Yes.

03:45PM

11 **MR. TRIPI:** Okay. We can zoom out of or take down

03:45PM

12 Exhibit 8A. And let's go back to Exhibit 310AT. Let's go to

03:45PM

13 record number 29. It's on page 13.

03:45PM

14 **BY MR. TRIPI:**

03:45PM

15 Q. Do you see that entry?

03:45PM

16 A. Yes.

03:45PM

17 Q. What's the name there?

03:45PM

18 A. Derek Roy.

03:45PM

19 Q. Do you see a phone number for that person?

03:45PM

20 A. 647-642-9886.

03:46PM

21 Q. As you understand it, is Mr. Roy a former Buffalo Sabre?

03:46PM

22 A. Yes, Derek Roy.

03:46PM

23 Q. Are you pronouncing it the Canadian way?

03:46PM

24 A. I guess I am.

03:46PM

25 **MR. TRIPI:** Let's go to record number 35. Can you

03:46PM 1 zoom in on that one?

03:46PM 2 **BY MR. TRIPI:**

03:46PM 3 Q. Do you see that name, Turtle?

03:46PM 4 A. I do.

03:46PM 5 Q. Do you know there to be an individual name Donald

03:46PM 6 Panepinto a/k/a Turtle?

03:46PM 7 A. Yes.

03:46PM 8 Q. As far as reputation in the law enforcement community you

03:46PM 9 were a part of, was that person believed to be associated

03:46PM 10 with Italian Organized Crime?

03:46PM 11 A. Yes.

03:46PM 12 Q. Yes. Do you see a phone number in Mr. Gerace's phone for

03:47PM 13 that person?

03:47PM 14 A. Yes.

03:47PM 15 Q. Look at record number 38, please. Do you see an entry

03:47PM 16 for that person?

03:47PM 17 A. K.L.

03:47PM 18 Q. As you understand it, was Ms. K.L. someone who was later

03:47PM 19 subpoenaed to testify before a federal grand jury as part of

03:47PM 20 your investigation?

03:47PM 21 A. Yes.

03:47PM 22 Q. Let's go to record 38.

03:47PM 23 Who is that?

03:47PM 24 A. Lindsay Schuh.

03:47PM 25 Q. Is that the defendant's wife's maiden name?

03:47PM

1 A. Yes.

03:47PM

2 Q. So that's Lindsay Bongiovanni's phone number?

03:47PM

3 A. Yes.

03:47PM

4 Q. Let's go to record 40.

03:48PM

5 Is there an entry for Tom Napoli?

03:48PM

6 A. Yes.

03:48PM

7 Q. And I won't pull it up again, but is he one of the people

03:48PM

8 in that photo with the defendant in Toronto, Exhibit 126?

03:48PM

9 A. Yes, he is.

03:48PM

10 **MR. TRIPI:** Let's go to record 46 please.

03:48PM

11 **BY MR. TRIPI:**

03:48PM

12 Q. Do you know who that person is? Tommy O?

03:48PM

13 A. Yes.

03:48PM

14 Q. Who is that?

03:48PM

15 A. He's the head of the Outlaws, and the day manager at

03:48PM

16 Pharaoh's. John Ermin is his name.

03:49PM

17 Q. Can we go to record 48? And do you see that person's

03:49PM

18 name?

03:49PM

19 A. Yes.

03:49PM

20 Q. And who's that?

03:49PM

21 A. Frank Tripi.

03:49PM

22 Q. Do you see a phone number for that person?

03:49PM

23 A. Yes.

03:49PM

24 Q. Is that person, based upon his reputation in the law

03:49PM

25 enforcement community, believed to be associated with Italian

03:49PM 1 Organized Crime?

03:49PM 2 A. Yes.

03:49PM 3 Q. No relative of mine, right?

03:49PM 4 A. He is not.

03:49PM 5 Q. Do you see record 49? Do you see that entry?

03:49PM 6 A. Joe Tomasello.

03:49PM 7 Q. Do you see a phone number for that person in Mr. Gerace's

03:49PM 8 phone?

03:49PM 9 A. Yes.

03:49PM 10 Q. Let's go to record number 50.

03:50PM 11 Do you see who's entered in record number 50 in

03:50PM 12 Mr. Gerace's contact?

03:50PM 13 A. Phlycia Ray.

03:50PM 14 Q. What's another name for Phlycia Ray?

03:50PM 15 A. Phlycia Hunt.

03:50PM 16 Q. Is that the woman who you showed that exhibit to, 127?

03:50PM 17 A. Yes.

03:50PM 18 **MR. TRIPI:** Let's go to record 51, please.

03:50PM 19 **BY MR. TRIPI:**

03:50PM 20 Q. What's the name of the entry there that was in

03:50PM 21 Mr. Gerace's phone?

03:50PM 22 A. It says Anthony, and last name Bro.

03:50PM 23 Q. And is that a reference to Anthony Gerace, the

03:50PM 24 defendant's brother?

03:50PM 25 A. Yes.

03:50PM 1 Q. Is that the phone number you have associated with  
03:50PM 2 Mr. Gerace?

03:50PM 3 A. Yes.

03:50PM 4 Q. Anthony Gerace?

03:50PM 5 A. Yes.

03:50PM 6 Q. Let's go to record number 52.

03:50PM 7 Do you see that person's name?

03:51PM 8 A. Matt Barnaby.

03:51PM 9 Q. Do you see a -- is that just a Facebook contact? If you  
03:51PM 10 know?

03:51PM 11 A. Let's see. I don't see anything that says Facebook. Is  
03:51PM 12 there more to it than what's zoomed?

03:51PM 13 Q. I'll withdraw it. Let's go to -- I think that was it.  
03:51PM 14 We can take down Exhibit 310AT. All right. Now, earlier I  
03:51PM 15 had asked you -- we looked at Exhibit 490A; do you remember  
03:52PM 16 that.

03:52PM 17 **MR. TRIPI:** Ms. Champoux, it's in evidence. Can we  
03:52PM 18 pull that up?

03:52PM 19 **BY MR. TRIPI:**

03:52PM 20 Q. And can you describe for the jury again how you located  
03:52PM 21 the photo that we see here at Pharaoh's on December 12th,  
03:52PM 22 2019?

03:52PM 23 A. So it was a room at the far end of the upstairs hallway  
03:52PM 24 from the staircase. It was mostly empty, there was one piece  
03:52PM 25 of furniture in there. And then immediately inside the door

1 along on the wall on the left-hand side as you walk in the  
2 room was some stuff on the floor. One of the things on the  
3 floor was a plastic tote, a storage tote. And I searched  
4 through the tote and found the picture.

5 Q. I'm going hand you up now Government Exhibit 236A. If  
6 you can take a look at that.

7 Do you recognize Exhibit 236A? You it take it out if you  
8 need to.

9 A. Yes. It's the same photo that's depicted in 490A.

10 Q. Is that from the performance in Las Vegas that you talked  
11 about earlier?

12 A. Yes.

13 Q. Is that photo album, I guess for lack of a better term,  
14 in the same or substantially the same condition today as the  
15 last time you had obtained it?

16 A. Yes.

17 **MR. TRIPI:** The government offers Exhibit 236A, I  
18 believe it is, Your Honor. 236A.

19 **MR. MacKAY:** Can I just review it real quickly,  
20 Judge?

21 No objection, Your Honor.

22 **THE COURT:** Received without objection.

23 **(GOV Exhibit 236A was received in evidence.)**

24 **MR. TRIPI:** Your Honor, I'm going to publish it to  
25 the jury and let them pass it around.

03:54PM 1           **THE COURT:** Sure. It's just a single photo, the same  
03:54PM 2 photo of 490A, right?

03:54PM 3           **MR. TRIPI:** There's one other photo in there.

03:55PM 4           May have the record reflect that Exhibit 236A was  
03:55PM 5 published for the jury, Your Honor.

03:55PM 6           **BY MR. TRIPI:**

03:55PM 7 Q. All right. Also in April 2019, did you arrange for a  
03:55PM 8 border search of Mr. Bongiovanni's phone when you learned he  
03:56PM 9 was gonna be returning to the United States from another  
03:56PM 10 country?

03:56PM 11 A. Yes.

03:56PM 12           **MR. TRIPI:** We can take down 490A, Ms. Champoux.

03:56PM 13           **BY MR. TRIPI:**

03:56PM 14 Q. Just very briefly, what were the circumstances of that?

03:56PM 15 A. He was returning from the Caribbean to BWI in Baltimore,  
03:56PM 16 or through BWI in Baltimore. Coordinated with Customs and  
03:56PM 17 Border Protection officers at the airport to conduct a  
03:56PM 18 cursory review of his phone, and a secondary examination of  
03:56PM 19 his baggage.

03:56PM 20 Q. Now regarding that, did you get a full extraction like  
03:56PM 21 you did in Peter Gerace's phone?

03:56PM 22 A. No.

03:56PM 23 Q. Did you get a couple photocopies of some PDF or a couple  
03:56PM 24 pages of contacts?

03:56PM 25 A. Picture of the phone -- or, pictures of the phone screen,

03:56PM 1 explain various contacts embedded in a pdf.

03:56PM 2 Q. Did the CBP officers who had interacted with

03:57PM 3 Mr. Bongiovanni in Baltimore return his phone to him on site?

03:57PM 4 A. Yes.

03:57PM 5 Q. So you never had that phone?

03:57PM 6 A. No.

03:57PM 7 Q. Fast forwarding from April to June 6th of 2019, by that

03:57PM 8 point in your investigation, did you get to the point where

03:57PM 9 you had prepared a federal search warrant application and

03:57PM 10 affidavit seeking to execute a warrant at Mr. Bongiovanni's

03:57PM 11 residence located at 85 Alder Place in the Town of Tonawanda?

03:57PM 12 A. Yes.

03:57PM 13 Q. By that point in time, were other agencies participating

03:57PM 14 with you?

03:57PM 15 A. The Department of Justice Office of Inspector General and

03:57PM 16 the FBI.

03:57PM 17 Q. And was that sort of the FBI's initial involvement in the

03:57PM 18 case?

03:57PM 19 A. Yes.

03:57PM 20 Q. Was that through Special Agent Brian Burns?

03:57PM 21 A. Yes.

03:57PM 22 Q. Generally, can you describe how the search warrant with

03:58PM 23 Mr. Bongiovanni's residence was conducted?

03:58PM 24 A. Similar to the other search warrants I've described, the

03:58PM 25 house was cleared and secured by the HSI tactical team,



03:58PM 1 photographed. Search team searched for evidence, was  
03:58PM 2 documented and brought to the kitchen -- or, brought to the  
03:58PM 3 kitchen and then documented, collected, and then we left.

03:58PM 4 Q. All right. There's a lot to unpack there so, I'm going  
03:58PM 5 to go step by step.

03:58PM 6 A. Sure.

03:58PM 7 Q. At first the tactical team enters?

03:58PM 8 A. Yes.

03:58PM 9 Q. And then after a period of time, you're notified to come  
03:58PM 10 in and sort of take over the search and the scene?

03:58PM 11 A. Yes.

03:58PM 12 Q. What was your role that day?

03:58PM 13 A. I was going to interview Mr. Bongiovanni if he was  
03:58PM 14 willing, with Special Agent Carpenter and Special Agent Fusco  
03:58PM 15 from DOJ OIG.

03:58PM 16 Q. So, Special Agent Carpenter, we've heard his name before.  
03:59PM 17 He was the DOJ OIG agent assigned after the race-related  
03:59PM 18 comments were made known by Special Agent Casullo?

03:59PM 19 A. Yes.

03:59PM 20 Q. And Special Agent Fusco was there with Special Agent  
03:59PM 21 Carpenter?

03:59PM 22 A. Yes.

03:59PM 23 Q. Was your co-case agent Special Agent Halliday?

03:59PM 24 A. Yes.

03:59PM 25 Q. What was her role that day?

03:59PM 1 A. She was there. She was in charge of the search and  
03:59PM 2 evidence collection.

03:59PM 3 Q. And what was FBI Special Agent Burns's role that day?

03:59PM 4 A. He assisted with interviews.

03:59PM 5 Q. Primarily was he involved with dealing with  
03:59PM 6 Mr. Bongiovanni's wife Lindsay?

03:59PM 7 A. Yes.

03:59PM 8 Q. Were other agents from HSI there helping search and  
03:59PM 9 document the location?

03:59PM 10 A. Yes.

03:59PM 11 Q. Were you going to be the primary interviewer?

03:59PM 12 A. Yes.

03:59PM 13 Q. Were you the only agent on that scene who had been  
04:00PM 14 working the case since the moment Ron Serio first uttered  
04:00PM 15 Joseph Bongiovanni's name on July 20th, 2018?

04:00PM 16 A. Yes.

04:00PM 17 Q. Were photographs taken of the residence?

04:00PM 18 A. Yes.

04:00PM 19 Q. Now, when you entered, did you almost immediately upon  
04:00PM 20 entry interact with Mr. Bongiovanni?

04:00PM 21 A. Yes, almost as soon as I passed through the front door.

04:00PM 22 Q. Describe that very initial interaction with  
04:00PM 23 Mr. Bongiovanni.

04:00PM 24 A. He was standing up between the front door and the kitchen  
04:00PM 25 island, sort of behind the couch in the living room. And

04:00PM 1 when he saw me, he immediately began to ask me if we were  
04:00PM 2 there to execute a search warrant, or if it was also an  
04:00PM 3 arrest warrant. He asked me that question several times.

04:00PM 4 Q. Did you answer him?

04:01PM 5 A. I did.

04:01PM 6 Q. What did you tell him?

04:01PM 7 A. I told him we were there to execute a search warrant, and  
04:01PM 8 that he was not under arrest.

04:01PM 9 Q. What happened from there?

04:01PM 10 A. From there we moved towards the dining room table. I  
04:01PM 11 asked him if he'd be willing to speak with me and Special  
04:01PM 12 Agent Carpenter.

04:01PM 13 And he was also still handcuffed at the time. I asked  
04:01PM 14 him, I say, hey, if I take your handcuffs off, are you going  
04:01PM 15 to, you know, be nice and be a gentleman?

04:01PM 16 He said yes, so I took his handcuffs off. Then we sat  
04:01PM 17 down at the table.

04:01PM 18 Q. With respect to telling him it was just a search warrant  
04:01PM 19 and not an arrest warrant, did that mean you were going to  
04:01PM 20 search the house that day but not arrest Mr. Bongiovanni?

04:01PM 21 A. Correct.

04:01PM 22 Q. Was your investigation continuing?

04:01PM 23 A. Yes.

04:01PM 24 Q. Was it going to continue after that search warrant?

04:01PM 25 A. Yes.

04:01PM 1 Q. Did you tell Mr. Bongiovanni if he wants, he could leave,  
04:01PM 2 but -- how did that go?

04:01PM 3 A. Yes. So, I told him he could leave if he wanted. But  
04:02PM 4 that if he left, we wouldn't let him back into the house  
04:02PM 5 until we were finished searching.

04:02PM 6 Q. What did he decide to do?

04:02PM 7 A. He decided to stay.

04:02PM 8 Q. And talk to you?

04:02PM 9 A. Yes.

04:02PM 10 Q. I'd like that show you a series of photos to sort of set  
04:02PM 11 the location, okay?

04:02PM 12 A. Sure.

04:02PM 13 Q. I'm going to read these into the record. I'm going to  
04:02PM 14 hand you up 103-72, 103-1, 103-2, 103-3, 103-4, 103-5.

04:03PM 15 That's it for now. Handing those up to you now.

04:03PM 16 Do you recognize each of those photos that I just handed  
04:03PM 17 up to you, and the numbers of which I just read into the  
04:03PM 18 record?

04:03PM 19 A. Yes.

04:03PM 20 Q. What do you recognize them to be generally?

04:03PM 21 A. They're photos of Mr. Bongiovanni's residence taken the  
04:03PM 22 day we executed the search warrant.

04:03PM 23 Q. Now are these exhibits limited to sort of the areas of  
04:03PM 24 the house that you saw, observed, and were in?

04:03PM 25 A. Yes.

Q. Would it be accurate to say you didn't make your way through the whole house because you encountered Mr. Bongiovanni and then sat down with him?

A. I never made it off that first floor.

Q. All right.

**MR. TRIPI:** Your Honor, the government offers Exhibits 103-72, 103-1, 2, 3, 4, and 5 into evidence.

**MR. MacKAY:** No objection.

**THE COURT:** Received without objection.

**(GOV Exhibits 103-1, 2, 3, 4, 5, 72 were received in evidence.)**

**MR. TRIPI:** I'd like to go through these briefly, Special Agent Ryan.

Ms. Champoux, if we can publish 103-72.

**BY MR. TRIPI:**

Q. Is this just a picture of the front of the house as it generally appeared that day?

A. Yes.

Q. And let's go to 103-1.

Is this picture of sort of the front door?

A. It is the front door, yes.

Q. Okay. Let's go to 103-2.

When you open the front door, is this basically what you see?

A. Yes.

Q. Now, this photo, was this taken at a point in time after

1 the search had been conducted?

2 A. Yes.

3 Q. This particular case there, is that HSI property?

4 A. Yes.

5 Q. Is that where you were collecting some of the evidence?

6 A. Yes.

7 **MR. TRIPI:** Let's split 103-4 on the left and 103-3  
8 on the right if we could. Can you switch those around?

9 **BY MR. TRIPI:**

10 Q. Okay. On your screen you have Exhibit 103-4 on the left  
11 and 103-3 on the right. Can you explain this area of the  
12 house for the jury and how sort of the room flowed?

13 A. So this is the end of the house to the right as you're  
14 standing and looking at the house from outside. The large  
15 window in 103-3 is the front of the house, the sitting room,  
16 and then behind that and to the right of the kitchen, that  
17 window is the back wall of the house and the dining room.  
18 They're adjacent.

19 Q. So basically, this depicts one whole room?

20 A. Basically, yes.

21 Q. And this is off the kitchen, we just looked at that  
22 photo, 103-2?

23 A. Yes. To the right of the kitchen, if you're walking in  
24 through the front door.

25 Q. All right. So is this, we can just keep up 103-4, is

1 this the setting where the interview commenced with

2 Mr. Bongiovanni?

3 A. Yes.

4 Q. Can you describe for the jury or indicate where

5 Mr. Bongiovanni was seated?

6 A. Yes. Is there a particular mark you would like me to

7 make, or just circle?

8 Q. I don't know how to change the colors here, so maybe

9 let's put a JB if we could.

10 A. All right.

11 **MR. TRIPI:** May the record reflect he's made a mark

12 JB on the first chair on the far side of the table to the

13 right of the photograph.

14 **BY MR. TRIPI:**

15 Q. Okay. And where were you?

16 **MR. TRIPI:** Again, he's made a CR in the middle chair

17 on the far side of the table, sort of in the middle of the

18 photo.

19 **BY MR. TRIPI:**

20 Q. Where was Special Agent Carpenter?

21 A. This center chair on the other side.

22 Q. Indicating the middle chair on what we'll reference on

23 the near side of the table from the vantage point of the

24 photographer, sort of to the left of the photograph.

25 Was anyone else seated at the table?

04:08PM 1 A. Special Agent Fusco was here.

04:08PM 2 Q. Okay.

04:08PM 3 A. For the majority of the time.

04:08PM 4 Q. And he's indicated -- what's that first initial?

04:08PM 5 A. D.

04:08PM 6 Q. DF in the first chair on the near side of the table

04:08PM 7 closest to the vantage point of the photographer, sort of in

04:08PM 8 the center of the photo towards the bottom.

04:08PM 9 All right. We can leave that up while we talk through

04:08PM 10 this.

04:08PM 11 Okay. After you got situated at the table and you made

04:08PM 12 Mr. Bongiovanni aware it was a search warrant, not an arrest

04:09PM 13 warrant, did he ask you any questions about who the lead

04:09PM 14 investigation -- was the lead on the investigation?

04:09PM 15 A. He did. He was asking, going back and forth between

04:09PM 16 Special Agent Carpenter and myself, asking us who -- who was

04:09PM 17 the case agent.

04:09PM 18 Q. And did you answer him immediately?

04:09PM 19 A. The first time or two, or maybe even three times, we just

04:09PM 20 kind of let it hang and didn't answer him. And then

04:09PM 21 ultimately we said, well, we both are.

04:09PM 22 Q. About how many times did he ask you that question?

04:09PM 23 A. It was at least three, may have been more than that.

04:09PM 24 Q. After you established that Mr. Bongiovanni could leave if

04:09PM 25 he wanted to, if he was going to speak with you, how did you



04:09PM 1 begin the interview?

04:09PM 2 A. Started by asking him about his relationship with Peter  
04:09PM 3 Gerace. I asked him to characterize it, you know, just  
04:10PM 4 describe it to us.

04:10PM 5 Q. Now, as you're asking him questions, are you also taking  
04:10PM 6 sort of contemporaneous notes?

04:10PM 7 A. Yes.

04:10PM 8 Q. And what did Mr. Bongiovanni say to you about his  
04:10PM 9 relationship with Peter Gerace?

04:10PM 10 A. He said that he wasn't in a -- that he wouldn't  
04:10PM 11 characterize it as a close relationship, or it wasn't a close  
04:10PM 12 relationship.

04:10PM 13 Q. What else did he say?

04:10PM 14 A. That it was, the way he described it was as a one-sided  
04:10PM 15 relationship with the contact initiated by Peter Gerace,  
04:10PM 16 always to him, not the other way around. It wasn't the kind  
04:10PM 17 of relationship where they planned to do things together.

04:10PM 18 Q. At one point did he say there were times, a lot of times  
04:10PM 19 that he saw Peter Gerace and walked the other way?

04:10PM 20 A. He did say that. That he would run into him in a public  
04:11PM 21 setting, and if he saw him, he would go in the other  
04:11PM 22 direction so that he wouldn't have to talk to him.

04:11PM 23 Q. Was that statement when he made it to you consistent or  
04:11PM 24 inconsistent with the information that you saw in the text  
04:11PM 25 messages?

04:11PM 1 A. It seemed inconsistent to me.

04:11PM 2 Q. Was it consistent or inconsistent with what you've now

04:11PM 3 seen as the photo of them together in Las Vegas?

04:11PM 4 A. Inconsistent.

04:11PM 5 Q. Did the defendant describe what his policy was with

04:11PM 6 regard to whether or not he would go to lunch with Gerace?

04:11PM 7 A. I did ask him about that because of the communication and

04:11PM 8 text messages. And he said that it was his policy to never

04:11PM 9 go to lunch with Gerace.

04:11PM 10 Q. Never?

04:11PM 11 A. Yes.

04:11PM 12 Q. Did you ask him if he ever reached out to Peter Gerace to

04:12PM 13 arrange a meeting?

04:12PM 14 A. I asked him, do you ever contact him and set up anything

04:12PM 15 socially? He said no.

04:12PM 16 Q. Did you ask him when the last time he spoke with Gerace

04:12PM 17 was?

04:12PM 18 A. I did. He said that it had been more than a year from

04:12PM 19 the time that we were sitting there.

04:12PM 20 Q. Did you ask him if they had celebrated birthdays

04:12PM 21 together?

04:12PM 22 A. I did. Again, based on the text message string, I was

04:12PM 23 asking about the Boss party. I didn't mention Boss, I just

04:12PM 24 asked him if they did things like celebrate birthdays

04:12PM 25 together. He said no.

04:12PM 1 **MR. TRIPI:** Ms. Champoux, can we take this one down  
04:12PM 2 and go to Exhibit 310D. I think it's page 11 of the PDF.  
04:13PM 3 Scroll down a little bit, please.

04:13PM 4 **BY MR. TRIPI:**

04:13PM 5 Q. We're looking at pages 11, 12. You went through these  
04:13PM 6 text messages in detail earlier. Are these text messages  
04:13PM 7 that relate to Mr. Bongiovanni inviting Gerace to his  
04:13PM 8 birthday dinner at Boss?

04:13PM 9 A. Yes.

04:13PM 10 Q. So was his answer to you about whether they celebrated  
04:13PM 11 birthdays together consistent or inconsistent with the text  
04:13PM 12 messages that you had reviewed?

04:13PM 13 A. Inconsistent.

04:13PM 14 Q. Now you didn't tell Mr. Bongiovanni that you had  
04:13PM 15 Mr. Gerace's text threads, correct?

04:13PM 16 A. That's correct.

04:13PM 17 **MR. TRIPI:** Will you take that down.

04:13PM 18 We can pull back up Exhibit 103-4. Thank you.

04:13PM 19 **BY MR. TRIPI:**

04:14PM 20 Q. How did Mr. Bongiovanni describe Peter Gerace?

04:14PM 21 A. He said he was a pain in the ass.

04:14PM 22 Q. Did he say it's someone he wanted to get away from?

04:14PM 23 A. He did.

04:14PM 24 **MR. TRIPI:** Can we show Exhibit 127 next to  
04:14PM 25 Exhibit 490A, please?

2 | Q. In each of those Exhibits, 127 and 490A, is

5 A. Yes. They're right next to each other in 127, and very  
6 close in 490A.

9 | A. Yes. And seven years apart. Maybe eight.

12 BY MR. TRIPI:

16	A. Yes.
----	---------

19 BY MR. TRIPI:

24 | A. Yes. It was great to see your parents, but yes.

25 Q. Oh, I'm sorry. Bad eyes, thank you.

04:16PM 1 Describe how the conversation with you and

04:16PM 2 Mr. Bongiovanni progressed from there as it related to

04:16PM 3 Mr. Gerace.

04:16PM 4 A. I asked him if -- we talked about whether or not he had

04:16PM 5 ever been to Pharaoh's, and he said that he didn't, he hadn't

04:16PM 6 gone to Pharaoh's.

04:16PM 7 I said well, what about the golf outings or something

04:16PM 8 alone those lines? Because I had seen the text messages

04:16PM 9 about that.

04:16PM 10 And he told me that he been to one Pharaoh's golf outing

04:16PM 11 maybe 12 to 15 years before the interview, the day of the

04:16PM 12 interview as we were sitting there.

04:16PM 13 Q. Did Mr. Bongiovanni make a statement to you regarding

04:16PM 14 penalizing a person for who they grew up with?

04:16PM 15 A. He did say that.

04:16PM 16 Q. Describe how that came up and what he said.

04:17PM 17 A. We started the interview by asking him a series of

04:17PM 18 questions about Peter Gerace like we'd been going through.

04:17PM 19 That statement was not in response to any specific

04:17PM 20 question. I felt like at the time it was more -- it was

04:17PM 21 something that he was saying as a reaction to us asking so

04:17PM 22 many questions about Peter Gerace.

04:17PM 23 Q. So what did he say?

04:17PM 24 A. He said you can't penalize somebody for who they grew up

04:17PM 25 with.

04:17PM 1 Q. Is that what you were doing there?

04:17PM 2 A. No.

04:17PM 3 Q. Had you followed evidence for a number of months that led  
04:17PM 4 you to that point?

04:17PM 5 A. Yes.

04:17PM 6 Q. Did you ask Mr. Bongiovanni about Gerace and any family  
04:17PM 7 connections Mr. Gerace had to Italian Organized Crime?

04:18PM 8 A. I did.

04:18PM 9 Q. What did he say?

04:18PM 10 A. He said that Peter's grandfather, he thought, had had  
04:18PM 11 something to do with organized crime.

04:18PM 12 And then I asked him a question about, you know, Peter,  
04:18PM 13 do you think he does? And he said he didn't know him well  
04:18PM 14 enough to answer that.

04:18PM 15 And then we talked a little bit about just generally, I  
04:18PM 16 asked him opinion of organized crime in Buffalo. He said he  
04:18PM 17 thought it was dead.

04:18PM 18 Q. When he offered you that opinion, did he -- did you ask  
04:18PM 19 him if he ever tried to investigate it?

04:18PM 20 A. I did.

04:18PM 21 Q. What did he say?

04:18PM 22 A. He said that he had never done an organized crime  
04:18PM 23 investigation, and that it was something that was outside of  
04:18PM 24 his wheelhouse.

04:18PM 25 Q. So he never investigated it, but he offered you an

04:18PM 1 opinion that it was dead?

04:18PM 2 A. Yes.

04:18PM 3 Q. Does that make any sense?

04:18PM 4 A. It didn't make much sense, no.

04:18PM 5 Q. Back to the topic of Pharaoh's.

04:18PM 6 When you asked him about that, did he describe it as a

04:19PM 7 seedy place?

04:19PM 8 A. He did.

04:19PM 9 Q. How did that come up?

04:19PM 10 A. I was talking to him about Pharaoh's, Peter Gerace, also

04:19PM 11 in the context of the Outlaws' involvement in Pharaoh's. And

04:19PM 12 it was his opinion of Pharaoh's that he volunteered.

04:19PM 13 Q. And what was that opinion that he volunteered again?

04:19PM 14 A. That he thought it was a seedy place.

04:19PM 15 Q. What did you understand seedy place to mean?

04:19PM 16 A. Unseemly. Things happen there that weren't nice.

04:19PM 17 Q. Is that along the lines of when you asked him if he'd

04:19PM 18 ever went there?

04:19PM 19 A. Yes.

04:19PM 20 Q. I won't pull it up again to spare some of the reviewing

04:19PM 21 these texts again. But in Exhibit 310D, did you see text

04:20PM 22 messages where Mr. Gerace was indicating that Bongiovanni

04:20PM 23 should go to Pharaoh's and use the employee entrance?

04:20PM 24 A. Yes.

04:20PM 25 Q. Would that indicate to you that, in fact, Mr. Bongiovanni

04:20PM 1 had been to Pharaoh's?

04:20PM 2 A. It did. And I had those in mind, or those texts in mind  
04:20PM 3 when I was asking the question.

04:20PM 4 Q. At a certain point in the interview, did Anthony Gerace's  
04:20PM 5 arrest on January 28th, 2019 come up?

04:20PM 6 A. Yes.

04:20PM 7 Q. How did that come up?

04:20PM 8 A. Just as we switched from Peter to Anthony, asking about  
04:20PM 9 that, we were asking about it, too, because of the proximity  
04:20PM 10 of the arrest to his retirement. And we just asked him if he  
04:20PM 11 heard about Anthony's arrest.

04:20PM 12 Q. What did he say about that?

04:20PM 13 A. That he had. That he was concerned that the arrest would  
04:21PM 14 raise some suspicion about him, but that also he was happy  
04:21PM 15 that Anthony was arrested.

04:21PM 16 Q. Did he ever explain to you why he was concerned Anthony's  
04:21PM 17 arrest would raise suspicion about him?

04:21PM 18 A. No, he didn't.

04:21PM 19 Q. As you were discussing Anthony Gerace, did you ask if he  
04:21PM 20 ever attended any parties with Anthony Gerace or went on any  
04:21PM 21 trips?

04:21PM 22 A. Yes. He said that he had seen Anthony at a -- was it a  
04:21PM 23 Just Pizza golf outing, I think. But that it had been  
04:21PM 24 several years. And other than that, that he hadn't seen him,  
04:21PM 25 that they didn't go on trips.



04:21PM 1 Q. Did he say to you regarding a party that he had never  
04:21PM 2 attended a party with Anthony Gerace?

04:21PM 3 A. Yes. I specifically asked him about a party, attending  
04:21PM 4 parties.

04:21PM 5 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 310D  
04:21PM 6 at page 19.

04:21PM 7 **BY MR. TRIPI:**

04:22PM 8 Q. Can you read that text from February 22nd, 2016, from  
04:22PM 9 Mr. Bongiovanni to Mr. Gerace on page 19 of Exhibit 310D?

04:22PM 10 A. It says: What up, Bro. Saw your brother in Toronto last  
04:22PM 11 weekend.

04:22PM 12 Q. And Mr. Gerace writes: Anthony? And then what does  
04:22PM 13 Mr. Bongiovanni say?

04:22PM 14 A. He says: Yes, sir. It was my wife's sister Ashley 30th  
04:22PM 15 birthday.

04:22PM 16 Q. Is a birthday a party?

04:22PM 17 A. Yes. And then I also had the Boss party in mind, too,  
04:22PM 18 when I asked the question.

04:22PM 19 Q. Meaning the defendant's birthday party that we talked  
04:22PM 20 about a moment ago?

04:22PM 21 A. Yes.

04:22PM 22 **MR. TRIPI:** We can take that down, Ms. Champoux.

04:22PM 23 **BY MR. TRIPI:**

04:22PM 24 Q. Did you ask the defendant if he knew Michael Sinatra?

04:22PM 25 A. I did.

04:22PM 1 Q. What did he say about his relationship, if any, with  
04:22PM 2 Michael Sinatra?

04:22PM 3 A. He said that he did know Mr. Sinatra. Mr. Sinatra had  
04:22PM 4 done some landscaping for him.

04:23PM 5 And then also I think there was romantic relationship  
04:23PM 6 maybe between Mr. Sinatra and his wife's youngest sister at  
04:23PM 7 some point.

04:23PM 8 And then we discussed the burglary that occurred at  
04:23PM 9 Mr. Sinatra's house. He said that Sinatra'd called him in  
04:23PM 10 some short time after the burglary --

04:23PM 11 Q. Before we get to that --

04:23PM 12 A. Sure.

04:23PM 13 Q. -- I mean, did you ask him if he socialized or went on  
04:23PM 14 any trips with Mr. Sinatra?

04:23PM 15 A. I did.

04:23PM 16 Q. What did he say to that?

04:23PM 17 A. He said that he did not.

04:23PM 18 **MR. TRIPI:** Okay. Can we show Exhibit 126.

04:23PM 19 **BY MR. TRIPI:**

04:23PM 20 Q. Is this Mr. Sinatra in a photo with Mr. Bongiovanni in  
04:23PM 21 Toronto?

04:23PM 22 A. Yes.

04:23PM 23 Q. Is that at that party we've referenced?

04:23PM 24 A. Yes.

04:23PM 25 Q. Is that a social event?

04:23PM 1 A. Yes.

04:24PM 2 **MR. TRIPI:** You can leave that up.

04:24PM 3 **BY MR. TRIPI:**

04:24PM 4 Q. Now, you were talking about his comments about

04:24PM 5 Mr. Sinatra's burglary. Can you describe how that came up?

04:24PM 6 A. It came up as we were talking about Sinatra. It may have

04:24PM 7 been in response to a question about the last time he talked

04:24PM 8 to him. But it did come out that they had spoken earlier

04:24PM 9 that year in the time immediately after the burglary at

04:24PM 10 Sinatra's house.

04:24PM 11 Sinatra had called him to ask his opinion as to why law

04:24PM 12 enforcement was moving slowly. Mr. Sinatra believed that

04:24PM 13 he'd identified the house where his stolen money was being

04:24PM 14 kept, and he didn't understand why law enforcement wasn't

04:24PM 15 moving faster to get a search warrant for that house.

04:24PM 16 Q. Now, had Mr. Bongiovanni characterized his relationship

04:24PM 17 with Mr. Sinatra earlier in the interview before he mentioned

04:24PM 18 that?

04:24PM 19 A. Yes.

04:24PM 20 Q. How did he characterize the relationship?

04:24PM 21 A. That Mr. Sinatra was his landscaper, and that they

04:24PM 22 weren't social friends.

04:24PM 23 Q. When he gave you -- when he further talked about Sinatra

04:25PM 24 calling him to ask why law enforcement wasn't moving faster

04:25PM 25 to obtain a search warrant as to where his -- he thought his

1 money had gone to, did that sound to you like something a  
2 landscaper calls someone about?

3 **MR. MacKAY:** Objection, speculation.

4 **THE COURT:** Sustained.

5 **BY MR. TRIPI:**

6 Q. Have you ever had landscapers?

7 A. Yes.

8 Q. Have they ever called you to ask why police aren't  
9 getting search warrants --

10 **MR. MacKAY:** Objection.

11 **BY MR. TRIPI:**

12 Q. -- more quickly?

13 **THE COURT:** Sustained. Sustained.

14 **BY MR. TRIPI:**

15 Q. When you heard his explanation, did that sound like a  
16 standard landscaper relationship?

17 **MR. MacKAY:** Objection. Improper opinion.

18 **THE COURT:** Sustained.

19 **MR. TRIPI:** Judge, it frames -- it frames where he's  
20 going in the interview.

21 **THE COURT:** Sustained.

22 **BY MR. TRIPI:**

23 Q. Okay. Did the defendant say to you why he had Michael  
24 Sinatra's phone number?

25 A. Because of the landscaping.

04:25PM 1 Q. By that point in time, did you learn that the defendant  
04:26PM 2 had wiped his DEA phone when he turned it in --

04:26PM 3 A. Yes.

04:26PM 4 Q. -- before he left the DEA?

04:26PM 5 A. Yes, we had.

04:26PM 6 Q. Did you ask him questions about that?

04:26PM 7 A. Yes.

04:26PM 8 Q. What did you ask him, and what did he say?

04:26PM 9 A. Asked him about his work phone, if he'd had -- if he ever  
04:26PM 10 had a personal phone while he worked for DEA. He said that  
04:26PM 11 he had not, he said he used his DEA phone for work and  
04:26PM 12 personal calls for his entire career.

04:26PM 13 And then he also said that he did erase the phone, and he  
04:26PM 14 did so because he thought DEA policy required it. He had  
04:26PM 15 done that with previous phones he had turned in.

04:26PM 16 Q. By that point in time in your investigation, was it your  
04:26PM 17 understanding the defendant had used that phone that he had  
04:26PM 18 wiped for a very long period of time?

04:26PM 19 A. I know he had that number for a long time, I don't know  
04:27PM 20 how long he'd had that particular phone.

04:27PM 21 Q. Okay. In your experience, is factory resetting a phone a  
04:27PM 22 way to wipe the data from it?

04:27PM 23 A. It does.

04:27PM 24 Q. I think you might have mentioned this, but did you ask  
04:27PM 25 him specifically about attending Pharaoh's golf tournaments?

04:27PM 1 A. Yes.

04:27PM 2 Q. What did you ask him, and what did he say as specifically  
04:27PM 3 as you can recall?

04:27PM 4 A. I asked him if he had ever attended a Pharaoh's golf  
04:27PM 5 outing. He said that he had attended one, and that it had  
04:27PM 6 been 12 or 15 years ago.

04:27PM 7 Q. We just looked at a text thread in Exhibit 310D about a  
04:27PM 8 Pharaoh's golf outing; do you remember that?

04:27PM 9 A. Yes.

04:27PM 10 Q. Was it ten or 15 years ago, or was it much closer in time  
04:27PM 11 to your interview?

04:28PM 12 A. Much closer in time.

04:28PM 13 Q. When you had asked him questions and he had given you  
04:28PM 14 some answers about organized crime, when he offered you his  
04:28PM 15 opinion that organized crime was dead, do you remember you  
04:28PM 16 had referenced that a moment ago?

04:28PM 17 A. Yes.

04:28PM 18 Q. Did the defendant make any reference in any part of his  
04:28PM 19 conversation with you to agents always wanting to sit out in  
04:28PM 20 front of LaNova?

04:28PM 21 A. He did. He referred to it as the pizza place.

04:28PM 22 Q. And what did you understand that to mean?

04:28PM 23 A. LaNova on West Ferry.

04:28PM 24 Q. Is that a pizza place that was associated with Gerace's  
04:28PM 25 grandfather?

04:28PM

1 A. Yes.

04:28PM

2 Q. And is currently associated with Gerace's uncle?

04:28PM

3 A. Yes.

04:28PM

4 Q. What did the defendant say about that location?

04:28PM

5 A. That when new agents come to town, they always want to

04:28PM

6 sit on the pizza place and do surveillance and see if they

04:29PM

7 can make an organized crime case.

04:29PM

8 Q. What was his demeanor when he was making that comment?

04:29PM

9 A. Dismissive. Like it was a joke that you would sit there

04:29PM

10 and try to do that.

04:29PM

11 Q. At some point in the interview, did you ask him why he

04:29PM

12 didn't investigate Pharaoh's?

04:29PM

13 A. I asked him if he had ever tried to make a case at

04:29PM

14 Pharaoh's. He said that --

04:29PM

15 Q. Let me ask you this before you get there, what he said to

04:29PM

16 that.

04:29PM

17 Had you already had the conversation with him where he

04:29PM

18 mentioned Pharaoh's, or said it was a seedy place --

04:29PM

19 A. Yes.

04:29PM

20 Q. -- earlier in the interview?

04:29PM

21 A. Yes.

04:29PM

22 Q. And then later you circled back and asked this question?

04:29PM

23 A. Yes.

04:29PM

24 Q. Okay. What was the question you asked?

04:29PM

25 A. Did you ever try it make a case at Pharaoh's.

04:29PM 1 Q. And so what did he say?

04:30PM 2 A. The Cheektowaga police kept an eye on Pharaoh's. And  
04:30PM 3 that he never had any information that was good enough to  
04:30PM 4 start a case.

04:30PM 5 Q. Did he offer you a description of Peter Gerace's  
04:30PM 6 cooperation at one point with the DEA?

04:30PM 7 A. Yes.

04:30PM 8 Q. All right.

04:30PM 9 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 30A.

04:30PM 10 **BY MR. TRIPI:**

04:30PM 11 Q. We've looked at this a couple times, you're familiar with  
04:30PM 12 this DEA-6 report?

04:30PM 13 A. Yes.

04:30PM 14 Q. Now you didn't show the defendant that you had this  
04:30PM 15 report or had access to this report, correct?

04:30PM 16 A. I did not.

04:30PM 17 Q. Did he offer you a description that differed from even  
04:30PM 18 this report?

04:31PM 19 I'll withdraw that question.

04:31PM 20 Tell the jury how the defendant described Peter Gerace's  
04:31PM 21 attempt to cooperate with the DEA. What did the defendant  
04:31PM 22 say to you?

04:31PM 23 A. So, I asked him if he knew if Peter Gerace ever had been  
04:31PM 24 a source. And he said that there was a time where he did try  
04:31PM 25 to cooperate, Peter Gerace contacted him, said he had



1 information. Mr. Bongiovanni referred that to his  
2 supervisor. He told me that he recused himself because of  
3 his personal relationship with Mr. Gerace. And his  
4 supervisor Dale Kasprzyk ultimately made the determination to  
5 pass the information to the FBI.

6 Q. So --

7 A. And refer Mr. Gerace to the FBI. And then I asked him --

8 Q. Hang on one second. Let me ask a follow-up.

9 So in his answer to you, did the defendant say Dale  
10 Kasprzyk made the decision to refer Gerace to the FBI?

11 A. That was the sum and substance of it, yes.

12 Q. Did the defendant say to you he recused himself because  
13 he knew Gerace personally?

14 A. Yes, he did say that.

15 Q. Did the defendant say to you he did not know if Gerace  
16 was ever signed up as an informant by the FBI?

17 A. I asked him. After he said that he was referred -- if he  
18 knew that Gerace had ever been signed up by the FBI or any  
19 other law enforcement agency.

20 Q. And what did he say?

21 A. He said he didn't know.

22 Q. Now I'd like you to read Government Exhibit 30A again to  
23 yourself. And let us know when you've got to go to the next  
24 page, okay?

25 A. Okay. Okay.

Q. Anywhere in Exhibit 30A did the Defendant Bongiovanni write that -- to his DEA supervisor that he needed to recuse himself?

A. No.

Q. Anywhere in Exhibit 30A did the defendant write that he knew Gerace personally?

A. No.

Q. Anywhere in Exhibit 30A -- withdrawn.

In 30A, did the defendant describe Gerace as a DEA confidential source?

A. He did.

Q. Was that information the defendant represented to his supervisor at the DEA inconsistent with the descriptions he was providing to you during in your interview?

**MR. MacKAY:** Objection, improper opinion.

**THE COURT:** Sustained.

**BY MR. TRIPI:**

Q. Did you ask Mr. Gerace -- withdrawn.

Did you ask Mr. Bongiovanni if Mr. Gerace had ever spoken with him about someone overdosing on drugs at Pharaoh's?

A. Yes.

Q. What was the genesis of your question? In other words, where had you learned that information?

A. It was something that I had learned he said to Special Agent Casullo.

04:35PM 1 Q. When you asked the defendant that question, whether  
04:35PM 2 Gerace had ever spoken to him about someone overdosing on  
04:35PM 3 drugs at Pharaoh's, what did the defendant say specifically?

04:35PM 4 A. He said that they had talked about it. He couldn't  
04:35PM 5 recall if it was because someone had overdosed or if it was  
04:35PM 6 because Mr. Gerace was afraid someone would overdose.

04:35PM 7 And so Mr. Bongiovanni recommended that Mr. Gerace become  
04:36PM 8 certified to administer Narcan, which is a lifesaving drug  
04:36PM 9 that stops an opioid overdose.

04:36PM 10 Q. Did Mr. Bongiovanni also say to you or indicate to you  
04:36PM 11 that it was common knowledge that strip clubs have problems?

04:36PM 12 A. He did.

04:36PM 13 Q. But you were focusing in on Pharaoh's, right?

04:36PM 14 A. Yes.

04:36PM 15 Q. Now, you worked at the DEA, right?

04:36PM 16 A. Yes.

04:36PM 17 Q. They investigate drug overdoses?

04:36PM 18 A. Yes.

04:36PM 19 Q. Are drug overdoses some of the most important cases that  
04:36PM 20 DEA agents and task force officers work?

04:36PM 21 A. Yes.

04:36PM 22 Q. Did the defendant in his interview with you ever indicate  
04:36PM 23 that he asked Gerace who overdosed?

04:36PM 24 A. No.

04:36PM 25 Q. Did the defendant ever say he opened an investigation

1 into drug overdoses at Pharaoh's?

2 A. No.

3 Q. Did he indicate or say anything at all that indicated to

4 you he had any desire to investigate overdoses at Pharaoh's?

5 A. No.

6 Q. Now, from that cursory search as you described it that

7 CBP did at the BWI airport back in April, had you learned

8 some of the names that were contained in Mr. Bongiovanni's

9 contacts of his phone?

10 A. Yes.

11 Q. Did you ask him about people like Frank Parisi, Tommy

12 Francoforte, and Frank Todaro?

13 A. I did. I had the PDF in a manila folder next to me, and

14 went through the names in order.

15 Q. With respect to the name Tommy Francoforte, did he -- did

16 any conversation come up about Paul Francoforte, that entry

17 Hot Dog that we looked at earlier --

18 A. Yes.

19 Q. -- that was in Mr. Gerace's phone?

20 A. Yes.

21 Q. Describe the conversation regarding Hot Dog, or Paul

22 Francoforte.

23 A. I knew that Paul Francoforte and Mr. Bongiovanni had a

24 previous border crossing where they traveled in from Canada

25 in the same car. So when the name Francoforte came up, I

04:38PM 1 asked if there was any relationship to Paul Francoforte. And  
04:38PM 2 then once Paul Francoforte came up, I asked about the border  
04:38PM 3 crossing.

04:38PM 4 Q. How did the defendant describe to you his interstate --  
04:38PM 5 or, withdrawn -- international travel to Canada with Hot Dog,  
04:38PM 6 Paul Francoforte?

04:38PM 7 A. He said that he had taken him over there to go to Swiss  
04:38PM 8 Chalet to get chicken.

04:38PM 9 Q. Was another name in Mr. Bongiovanni's phone contacts, at  
04:38PM 10 least the portion that you were able to see from the cursory  
04:38PM 11 search, an individual named Kim Mecca?

04:38PM 12 A. Yes.

04:38PM 13 Q. By that point, did you know who Kim Mecca was in relation  
04:38PM 14 to Lou Selva?

04:38PM 15 A. Yes.

04:38PM 16 Q. Did you know it was his girlfriend? Mr. Selva's  
04:39PM 17 girlfriend.

04:39PM 18 A. No, at that point I did not.

04:39PM 19 Q. You did not?

04:39PM 20 A. No, that's before I knew.

04:39PM 21 Q. You asked about Kim Mecca though?

04:39PM 22 A. I -- yeah. Like everyone else on the PDF, I asked who  
04:39PM 23 she was.

04:39PM 24 Q. Describe the conversation about Kim Mecca. And if you  
04:39PM 25 need your report, I have it.

04:39PM 1 A. It he said she was the girlfriend of a friend.

04:39PM 2 Q. Okay. And what happened from there?

04:39PM 3 A. I said, who's the friend?

04:39PM 4 And then he said that it was Lou Selva, but his body  
04:39PM 5 language changed.

04:39PM 6 Q. What did you observe with respect to the defendant's body  
04:39PM 7 language when he mentioned the name Lou Selva?

04:39PM 8 A. Well, it -- it started when I mentioned the name Kim  
04:39PM 9 Mecca, he leaned forward, put his elbows on his knees, his  
04:39PM 10 head was down almost like he was talking straight down  
04:39PM 11 through his knees towards the floor.

04:39PM 12 Q. Can do you the same thing that you saw the defendant do  
04:39PM 13 when you started asking about Kim Mecca, Lou Selva's  
04:39PM 14 girlfriend?

04:39PM 15 A. So, we're talking like this. And then I asked him about  
04:40PM 16 Kim Mecca, and he did this.

04:40PM 17 **MR. TRIPI:** May the record reflect the witness has  
04:40PM 18 placed both of his elbows on his knees, and dropped his head  
04:40PM 19 staring towards his feet from the seated position.

04:40PM 20 **THE WITNESS:** And then, as I said, he said Kim Mecca  
04:40PM 21 was the girlfriend of a friend.

04:40PM 22 I said, well, who's the friend?

04:40PM 23 And he mumbled the name Lou Selva. It was very low.

04:40PM 24 **BY MR. TRIPI:**

04:40PM 25 Q. Did you ask him to clarify that name?

04:40PM 1 A. No, I could understand the name, but it was just very  
04:40PM 2 different from the -- his tone in the previous conversation,  
04:40PM 3 or the conversation leading up to that, I should say.

04:40PM 4 Q. What were your observations of his demeanor at that point  
04:40PM 5 some?

04:40PM 6 A. It was a look of defeat, at least in that moment.

04:40PM 7 Q. Was there another name in the contacts of his phone that  
04:40PM 8 you asked about, Kerry Doctor?

04:40PM 9 A. Yes.

04:40PM 10 Q. As you sit here today, do you have an understanding of  
04:41PM 11 who Kerry Doctor is in relation to Tom Doctor?

04:41PM 12 A. I asked him who is that. And his answer was the wife of  
04:41PM 13 Tom Doctor, who had been his partner when he was a TFO with  
04:41PM 14 DEA.

04:41PM 15 Q. Referencing Tom Doctor had been a DEA TFO?

04:41PM 16 A. Yes.

04:41PM 17 Q. Now at this point in the interview, you had asked him  
04:41PM 18 about socializing or partying with Anthony Gerace and Michael  
04:41PM 19 Sinatra; is that right?

04:41PM 20 A. Yes.

04:41PM 21 Q. You've already described his answers in that regard. Did  
04:41PM 22 you circle back and ask him about that that trip you knew  
04:41PM 23 about to Toronto?

04:41PM 24 A. Yes.

04:41PM 25 Q. Did you actually at that point in the interview show him

04:41PM 1 the photo that you had?

04:41PM 2 A. Yes.

04:41PM 3 **MR. TRIPI:** Can we pull up Exhibit 126, put it back  
04:41PM 4 on the screen.

04:41PM 5 **BY MR. TRIPI:**

04:41PM 6 Q. So you had a copy of this photo with you?

04:41PM 7 A. Yes.

04:41PM 8 Q. At that point in the interview, after he had given you  
04:42PM 9 the answers about Michael Sinatra and Anthony Gerace, did you  
04:42PM 10 pull this photo out and ask him about the photo?

04:42PM 11 A. Yes.

04:42PM 12 Q. Describe that part of the interview.

04:42PM 13 A. I asked him if he remembered the photo, the events around  
04:42PM 14 it. He said that he and his wife had gone to Toronto for his  
04:42PM 15 wife's sister's birthday.

04:42PM 16 I asked him who the people were in the photo. He named  
04:42PM 17 them. He said they stayed overnight at the Intercontinental  
04:42PM 18 Hotel in Toronto, that it was a birthday party.

04:42PM 19 I asked if there were other people at the party that  
04:42PM 20 weren't in the photo. He said a couple names, Chris Di Re.  
04:42PM 21 I think Dwyer, maybe.

04:42PM 22 Q. Would your report refresh your recollection as to names  
04:42PM 23 he mentioned?

04:42PM 24 A. Yes.

04:42PM 25 Q. I'm going to hand up Government Exhibit 3594BJ-1.



1 3594BJ-1. Does that refresh your recollection as to the  
2 names that he provided that were there?

3 A. Yes.

4 Q. What names did Mr. Bongiovanni provide you as to who was  
5 in Toronto?

6 A. So he did identify Kevin Myszka, the gentleman on the  
7 right side, being at the party.

8 Then he told me that Myszka had become the target of a --  
9 an investigation that his group was conducting later on. And  
10 that when that came up, he reported to his supervisor, who  
11 was Greg Yensan at the time, that he had been at this party  
12 with Kevin Myszka and others.

13 And then as far as the people who were at the party but  
14 not in the picture, it was Dave Dwyer and Chris Di Re.

15 And then I asked him if Anthony Gerace was at the party,  
16 and he said he couldn't remember.

17 Q. When you specifically asked him about Anthony Gerace, he  
18 said he couldn't remember?

19 A. Yes.

20 **MR. TRIPI:** Ms. Champoux, can we pull up Government  
21 Exhibit 310D, and go to a text on Friday 22nd, 2016. I don't  
22 have a page number. Oh, I do. It's -- I don't have a page  
23 number for you, I'm sorry. Page 19. Thank you.

24 **BY MR. TRIPI:**

25 Q. And we've seen this text before, but he was texting with

1 Peter Gerace that Anthony was at the party?

2 A. Yes.

3 Q. But he told you he didn't remember?

4 A. Yes.

5 Q. And he told you he didn't remember after he had already

6 told you that he had never partied or socialized with

7 Anthony, correct?

8 A. That's correct.

9 Q. Did you also show him that photo we've looked at a couple  
10 times, Exhibit 127, the photo of the cottage?

11 A. Yes.

12 Q. Did you ask him about that?

13 A. Yes.

14 Q. Did you do that again after he had already gave you all  
15 the answers that you've talked about already regarding Peter  
16 Gerace, and I'm summarizing, but avoiding Peter?

17 A. Yes.

18 Q. Is that why you showed him that picture, and then asked  
19 him more questions later on?

20 A. Yes.

21 **MR. TRIPI:** We can take that down, Ms. Champoux,  
22 310D.

23 **BY MR. TRIPI:**

24 Q. When you showed him that picture, the version you showed  
25 him didn't have the circles on it that Ms. Hunt made, right?

04:46PM 1 A. Right. That came later.

04:46PM 2 Q. What -- what did the defendant tell you about that event  
04:46PM 3 at the cottage?

04:46PM 4 A. Oh, that it was Tom Doctor's parents' cottage around the  
04:46PM 5 Fourth of July, a year or two previous to the interview.

04:46PM 6 I said, how did you end up there with Peter?

04:46PM 7 He said it happened by chance, that it wasn't a planned  
04:47PM 8 event.

04:47PM 9 Q. We just looked at 310D extensively; is that right?

04:47PM 10 A. Yes.

04:47PM 11 Q. Around page 69 of that exhibit, were there a number of  
04:47PM 12 text messages that indicated they were arranging to meet each  
04:47PM 13 other at that location?

04:47PM 14 A. Yes.

04:47PM 15 **MR. MacKAY:** Objection.

04:47PM 16 **THE COURT:** Basis?

04:47PM 17 **MR. MacKAY:** Mischaracterization of the evidence.

04:47PM 18 **MR. TRIPI:** All right. Let's go to 310D at 69, I was  
04:47PM 19 trying to just moving it along, but I --

04:47PM 20 **THE COURT:** So you withdraw the question?

04:47PM 21 **MR. TRIPI:** Yep, let's go to 310D at 69.

04:47PM 22 **BY MR. TRIPI:**

04:47PM 23 Q. All right. Look at exhibit -- text June 30th, 2018,  
04:47PM 24 2:37 p.m.?

04:47PM 25 A. It starts at least one page up from here.

04:47PM 1 Q. Oh, okay. Let's go a little higher then. How does it  
04:47PM 2 start out?

04:47PM 3 A. A text from Mr. Bongiovanni that says: Miss you, bro.  
04:48PM 4 I'm going up to Sunset today.

04:48PM 5 Q. And when you were framing your questions, and you later  
04:48PM 6 saw the photograph in that text thread, correct?

04:48PM 7 A. Well --

04:48PM 8 Q. When you were -- let me -- when you reviewed the texts  
04:48PM 9 before the interview, you had seen these texts, and then you  
04:48PM 10 also had seen a photo regarding that event; is that right?

04:48PM 11 A. Yes. So I'd seen them twice. I'd seen them attached --  
04:48PM 12 at least part of them attached to the memorandum.

04:48PM 13 Q. Right.

04:48PM 14 A. These in the extraction. And then ultimately when I get  
04:48PM 15 to then end of the review, the photo.

04:48PM 16 Q. And who reaches out about Sunset?

04:48PM 17 A. Mr. Bongiovanni.

04:48PM 18 Q. And then are there a whole series of texts where they're  
04:48PM 19 communicating that ultimately culminate in Mr. Gerace and  
04:48PM 20 Phlycia Hunt going to Sunset?

04:48PM 21 A. Yes.

04:48PM 22 Q. Was that -- was that how the defendant described it to  
04:48PM 23 you during the interview?

04:48PM 24 A. No.

04:48PM 25 Q. What did -- how did Mr. Bongiovanni describe their

04:49PM 1 meeting at Sunset Bay cottage there?

04:49PM 2 A. That it was by chance that Peter just showed up.

04:49PM 3 Q. Did he tell you the meeting was not planned?

04:49PM 4 A. Yes.

04:49PM 5 Q. Did he tell you he didn't want to see Peter that day?

04:49PM 6 A. Yes.

04:49PM 7 Q. All right. Now --

04:49PM 8 **MR. TRIPI:** We can take that down, Ms. Champoux.

04:49PM 9 **BY MR. TRIPI:**

04:49PM 10 Q. During your interview, other agents were searching  
04:49PM 11 various parts of the house; is that right?

04:49PM 12 A. Yes.

04:49PM 13 Q. As you were sitting with Mr. Bongiovanni, did eventually  
04:49PM 14 Special Agent Halliday bring over a box to you that had a  
04:50PM 15 file in it?

04:50PM 16 A. Yes.

04:50PM 17 Q. Did she -- did you have a chance to look at that during  
04:50PM 18 the interview?

04:50PM 19 A. Just very briefly.

04:50PM 20 Q. Okay. Enough to see generally what it was?

04:50PM 21 A. Yes.

04:50PM 22 Q. What was it?

04:50PM 23 A. It was a Redweld folder about that big with several  
04:50PM 24 documents in it, and three or four inches of paper. And it  
04:50PM 25 was -- and with notes written on the outside on the front of

04:50PM 1 the folder.

04:50PM 2 Q. Okay. From there, if you can see it, I'm holding up

04:50PM 3 Government Exhibit 100. What does the outside of the box

04:50PM 4 say?

04:50PM 5 A. DEA evidence.

04:50PM 6 Q. Is this the box that was brought to you? This is in

04:50PM 7 evidence already.

04:50PM 8 A. Oh, yes.

04:51PM 9 Q. Did you have an opportunity to peek inside the box when

04:51PM 10 it was brought to you?

04:51PM 11 A. Yes.

04:51PM 12 Q. Did you look at Government Exhibit 100A briefly?

04:51PM 13 A. Is that the folder?

04:51PM 14 Q. Yeah. You can pull that out. You can stand up if you

04:51PM 15 need to. Did you take a look at that folder while you were

04:51PM 16 sitting at the table?

04:51PM 17 A. Just enough to see the writing on the front.

04:51PM 18 Q. Did it look like -- did it look to you like something

04:51PM 19 that you would characterize as a DEA working file from your

04:51PM 20 time at DEA?

04:51PM 21 A. I mean, certainly the outside, yes.

04:51PM 22 Q. And did you have a chance to thumb through any of the

04:52PM 23 documents on the inside?

04:52PM 24 A. At the table?

04:52PM 25 Q. Yeah.

04:52PM 1 A. No.

04:52PM 2 Q. Did seeing that folder ask you -- or, withdrawn -- cause  
04:52PM 3 you to ask the defendant why he had reports related to Serio  
04:52PM 4 in his home?

04:52PM 5 A. Yes.

04:52PM 6 Q. Okay. So did you -- that file, just looking at it,  
04:52PM 7 indicated to you that there were reports related to Serio in  
04:52PM 8 the file?

04:52PM 9 A. Whoever brought it to the table mentioned something to  
04:52PM 10 me, that there were -- also that there was paperwork in it  
04:52PM 11 related to Serio.

04:52PM 12 Q. So those reports?

04:52PM 13 A. Yes.

04:52PM 14 **MR. TRIPI:** Your Honor, I'm not going to be done  
04:52PM 15 today. Is this an okay time to take a break --

04:52PM 16 **THE COURT:** Sure.

04:52PM 17 **MR. TRIPI:** -- for the day before I get into all  
04:52PM 18 this?

04:52PM 19 **THE COURT:** Okay, folks, so we will break for the  
04:52PM 20 evening now.

04:52PM 21 Please remember my instructions about not  
04:52PM 22 communicating about the case, not using tools of technology to  
04:52PM 23 communicate about the case or to research the case. Not to  
04:53PM 24 read, or watch, or listen to any news coverage of the case if  
04:53PM 25 there is any while the case is in progress. And not to make

up your mind about anything until the case is submitted to you for deliberations.

See you tomorrow morning at 9:30. We'll go 9:30 to 5 tomorrow, the same way we did today. Then Thursday, 9 until 2. And then Friday 12:30 until 5-ish. Okay?

So 9 on Thursday. Somebody asked -- said they're not going to remember. I'm reminding you again. And then 12:30 on Friday. Okay?

Thanks, folks. Drive carefully. Get a good night's sleep.

(Jury excused at 4:53 p.m.)

**THE COURT:** Okay, anything we need to do before we break?

**MR. TRIPI:** No, Your Honor.

**MR. MacKAY:** No, Your Honor.

**THE COURT:** Okay. See you folks tomorrow morning. Oh, and you're not to talk to anybody about your testimony while we're on the break until tomorrow.

How much longer do you think you're going to be?

**MR. TRIPI:** I would say I'm 75 percent done with him. I'm on page 24 of a 34-page outline.

**THE COURT:** Okay. Okay.

**MR. TRIPI:** Thank you, Judge.

(Excerpt concluded at 4:54 p.m.)

\* \* \* \* \*



**CERTIFICATE OF REPORTER**

In accordance with 28, U.S.C., 753(b), I  
certify that these original notes are a true and correct  
record of proceedings in the United States District Court for  
the Western District of New York on September 10, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.

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